



Unaccompanied Children Lacking Protection in Europe : PUCAFREU Project Final Comparative Report

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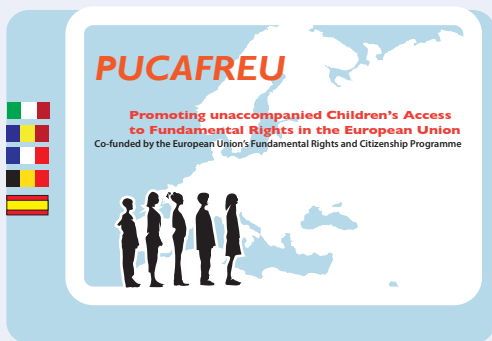
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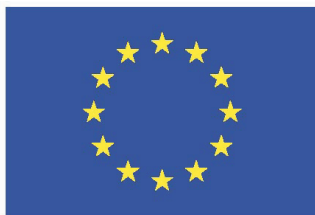


UNACCOMPANIED CHILDREN LACKING PROTECTION IN EUROPE



PUCAFREU PROJECT FINAL COMPARATIVE REPORT





Published in 2013 within the framework of the PUCAFREU Project « Promoting unaccompanied children's access to fundamental rights in the European Union »

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**UNACCOMPANIED CHILDREN
LACKING PROTECTION
IN EUROPE**

FINAL COMPARATIVE REPORT

Presentation of the PUCAFREU project

The PUCAFREU project started in March 2011 and has lasted for 26 months. Through different actions and working lines, the main aim of this project has been to promote unaccompanied children's access to the fundamental rights provided for in the United Nations Conventions of the Rights of the Child within the European Space.

The French *Centre National de la Recherche Scientifique*-CNRS¹ is the coordinating institution of the PUCAFREU project through its 7301 Research unit MIGRINTER, *Migrations, Espaces et Sociétés* based at the University of Poitiers². The Research unit CECOJI, *Centre d'études sur la Coopération juridique internationale*, has also cooperated at different stages of the project implementation³.

Five partner organisations have been involved in the five European countries which constitute the scope of the different actions of the project. These are: *Association Hors la Rue* (France)⁴, *Service Droit de Jeunes* (Belgium)⁵, *Fundacion la Merced Migraciones* (Spain)⁶, ASGI- *Associazioni per gli studi giuridici sull'immigrazione* (Italy)⁷ and *Fundatia PARADA* (Romania)⁸. In Italy, the University Roma Sapienza has participated at the different network meetings as an associate partner⁹.

The project was instigated to address the general lack of research on the situation and life conditions of unaccompanied children staying out of the control of Child Welfare authorities in Europe, as

¹ The National Centre for Scientific Research is a government-funded research organization under the administrative authority of the Ministry of Higher Education and Research. The CNRS is the main fundamental research organization in Europe and is largely involved in national, European, and international projects covering all fields of knowledge. CNRS is organized in 1211 laboratories or research units, either intramural or in partnership with universities, other research organizations or industry.

More information at www.cnrs.fr

² MIGRINTER is a research team specialized in the study of international migrations using a multidisciplinary approach. Created in 1985, MIGRINTER has currently more than 50 statutory and associated members and is located at the *Maison des Sciences de l'Homme et de la Société* (Faculty of Social Sciences), Poitiers, France.

More information at www.mshs.univ-poitiers.fr/migrinter/

³ More information at <http://www.cecoji.cnrs.fr/>

⁴ More information at www.horslarue.org

⁵ More information at www.sdj.be

⁶ More information at www.lamercedmigraciones.org

⁷ More information at www.asgi.it

⁸ More information at www.paradaromania.ro

⁹ More information at <http://www.diss.uniroma1.it/>

well as on the reasons for this lack of protection. This gap in knowledge has justified the implementation of qualitative research in the five countries mentioned above: Belgium, France, Italy and Spain being considered as countries of destination or transit to this kind of migration; Romania as a point of departure. The pertinence and originality of this contribution has been to prioritise the concerned children's perception of the situation of lack of protection they are experiencing or have experienced.

Following the creation of a common methodology and the identification of strategies of approach to this population adapted to each national context, research has been simultaneously conducted in the five territories between Autumn 2011 and Summer 2012.

The results of this multinational fieldwork research are presented through the publication of this comparative report. The report presents, on the one hand, the methodological achievements and the difficulties and limits of this research and, on the other hand, a first insight into the life conditions, the difficulties to access to fundamental rights and the obstacles to being admitted to appropriate care provisions in the different contexts studied. Considering the specificity of the research conducted in Romania and the objective difficulties to integrate the results obtained into the structure of this document, the report proposes a comparison of the four other countries of the project considered as countries of destination or transit.

The parallel publication of national reports provides a more detailed and in-depth insight of the different national contexts studied. Notably, the national reports contain the particularities of the legal treatment of unaccompanied children in the different national contexts; the implementation of the fieldwork research and finally, an analysis of the obtained results in each territory.

The fieldwork results are heterogeneous: this diversity is a consequence of different patterns of treatment of this population resulting in different profiles and realities in each territory. Nevertheless, we have verified a generalised existence of inappropriate practice provoking unaccompanied children's exclusion from State protection. However, section 20 of the United Convention on the Rights of the Child obliges State parties to provide special protection and assistance to *all* children temporary or definitively deprived of their family environment. With respect

to unaccompanied children, this right is currently violated in Europe.

Research has constituted the core action of the PUCAFREU project. Other working lines have involved the creation and launching of an international platform of experts working in the field of child migration, as well as the implementation of training seminars aimed at practitioners working directly or indirectly with migrant children.

All project results are to be found at: www.pucafreu.org

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Presentation of this document

This document contains the final comparative report of the PUCAFREU research action and is subdivided into three parts. The first chapter includes a brief introduction justifying the pertinence and interest of the exploratory research conducted within the framework of the PUCAFREU project. A second chapter presents the common methodological framework implemented in the four countries involved in the project (Belgium, France, Italy and Spain) that are considered as destination and/or transit countries for the migration of unaccompanied children. The third chapter, devoted to the comparative presentation of the main results of the fieldwork research, is divided into four sections: (1) Life conditions of unaccompanied children lacking protection and access to social rights; (2) Experience within child protection services; (3) Reasons explaining the situation of lack of protection; (4) Mobility as a form of unaccompanied children's agency.

The fifth country of the PUCAFREU project, Romania, was initially considered to be a country of origin for this particular migration group. This approach involved a specific definition of the target group and a different methodological framework, specific to this country. Considering these particularities, it was impossible to set up similar parameters of comparison and analysis of the obtained results. For this reason the results from the Romanian field are not included here.

One of the main aims of this research was to obtain the unaccompanied children's perception of the situation of lack of protection they were currently in or had previously experienced. To add value to this objective, we have reproduced a selection of excerpts from the interviews. It must be noted that many of these excerpts have been translated into English whilst trying to render the nuances of the interviewees' discourses as much as possible.

A non-English native speaker originally drafted this report in English. A full and in-depth professional proofreading has been performed. It is to be noted that section IV of Chapter 3 was originally drafted in French and translated into English. The reader may find some differences of style in this part.

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Chapter 1

Justification and Pertinence of the PUCAFREU Research Action

The independent and spontaneous migration of children on their own to most European Union Member States started during the nineties and was consolidated as a new category of migrants in the first decade of the new millennium¹⁰. Despite its limited importance in quantitative terms (the official average number of receptions in the four studied EU countries¹¹ is less than five thousand per year except for Italy¹², see figure 1 below), the presence of so-called unaccompanied children¹³ represents a cause of increasing concern for national, regional and local authorities dealing with this population.

The unaccompanied migrant children who are in the EU territory are entitled to fundamental rights, particularly those enshrined in the United Nations Convention on the Rights of the Child (hereinafter UNCRC)¹⁴. The United Nations Committee on the Rights of the Child states that *"the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a*

¹⁰ The European Commission estimates that the migration of unaccompanied minors *"is not a temporary phenomenon, but a long-term feature of migration into the EU"*. See (2012): Mid-term report on the implementation of the Action Plan on Unaccompanied Minors- Report from the European Commission to the Council and the European Parliament, COM(2012) 554 final of 28th of September 2012, page 2. The same document insists on a similar argument in page 11.

¹¹ In the framework of the PUCAFREU research action, Romania has been initially considered as a country of origin for the migration of unaccompanied children. Unless it is explicitly mentioned, all contents in this first part refer to the four other European Union countries: Belgium, France, Italy and Spain.

¹² For the 2006-2009 period, the average number of receptions/notifications of presence per year of unaccompanied children was of 1929 (Belgium); 472 (France); 6627 (Italy); 4618 (Spain). See figure 1 below for sources.

¹³ The United Nations Committee on the Rights of the Child has set up a double definition distinguishing between "unaccompanied children" those *"who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so"* and "separated children", those *"who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives"*. See COMMITTEE ON THE RIGHTS OF THE CHILD (2005): General Comment n° 6 on the treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6 of the 1st September 2005, paragraphs 7 & 8. In this document, we will prioritize the term of "unaccompanied children" or "unaccompanied minor" considering that it is preferentially used in the context of the European Union.

¹⁴ Convention on the Rights of the Child adopted and opened for signature, ratification and accession by the General Assembly resolution 44/25 of 20 November 1989.

State party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children - including asylum-seeking, refugee and migrant children- irrespective of their nationality, immigration status or statelessness”¹⁵. The European Commission Action Plan for unaccompanied minors (2010-2014) considers that the contents of the United Nations Convention on the Rights of the Child should be placed “at the heart of any action concerning unaccompanied minors”¹⁶ and advocates a common EU approach on this issue based on the respect of the rights of the child, particularly the principle of the best interests of the child, “which must be the primary consideration in all actions related to children taken by public authorities”¹⁷.

However, our previous research had shown that a number of EU Member States do not fully implement the fundamental rights of the child when dealing with the situation of unaccompanied, migrant and asylum-seeking children. Different practices can be considered to be against the principles, premises and contents of the UNCRC¹⁸. In some Member States, those prioritizing an asylum approach, certain categories of unaccompanied children are excluded to the enjoyment of any right, mainly those not seeking asylum. Some other Member States implement detentions of unaccompanied children at points of entry and, in some cases, return these children to their country of origin or provenance without evaluating the potential risk and harm that they could suffer. Finally, other Member States seek to implement a policy of forced returns giving priority to the right of the child to a family unit (or a so-called right of the child to live in its country of origin when there is no family reunification) without considering and evaluating the assertion of other fundamental rights in the child’s context of origin (the right to development, the right to education and health care, the right to an adequate standard of living, etc.). As a common trend, all studied Member States offer very restricted possibilities of integration to unaccompanied children admitted

¹⁵ See COMMITTEE ON THE RIGHTS OF THE CHILD (2005): General Comment nº 6 on the treatment of unaccompanied and separated children outside their country of origin, *op.cit.*, paragraph 12.

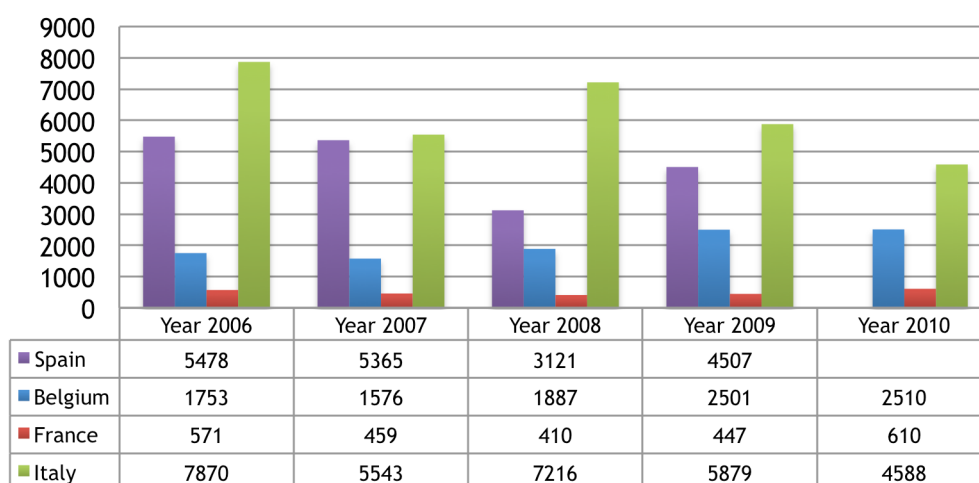
¹⁶ European Commission (2010): Action Plan (2010-2014) on unaccompanied minors of May 6th 2010, Communication from the Commission to the European Parliament and the Council, SEC(2010)534, page 2.

¹⁷ *Ibidem.*, page 3.

¹⁸ See SENOVILLA HERNANDEZ, D. (2010): « *Situación y tratamiento de los menores extranjeros no acompañados en Europa: Un estudio comparado de seis países* », PhD thesis on International Migration Studies, Instituto de Estudios sobre Migraciones, University Comillas de Madrid, 8th of July 2010, page 61 and following.

into care while they are underage, condemning them to an uncertain existence once they become of age¹⁹.

Figure 1- Receptions of unaccompanied children in Belgium, France, Italy and Spain (2006-2010)



Belgium: *Service de Tutelles*, Federal Ministry of Justice. Numbers refer to unaccompanied children whose presence has been notified to this institution;

France: OFPRA, *Office français de protection de réfugiés et apatrides*, Annual reports. Numbers reflect the number of asylum applications submitted by unaccompanied children. It has to be underlined that the number of unaccompanied children non-asylum seekers is much more significant. Even if official statistics lack, the latest estimations provided a number of around 4000-6000 unaccompanied children living in France in 2009.

Italy: All numbers come from GIOVANNETTI, M. (2012): "*I comuni italiani e le politiche di accoglienza dei minori stranieri non accompagnati*", in *I minori stranieri non accompagnati in Italia- IV rapporto ANCI Cittalia*, pages 37-127;

Spain: All numbers come from the Official Journal of the Parliament of 11th of May 2009 (statistics for 2006 & 2007), 6th of October 2009 (year 2008) and 23rd of September 2010 (year 2009). Statistics for 2010 are not available.

The primary consequence ensuing from the above-described practices is that a significant percentage of unaccompanied children living in the European Union are lacking protection, whether they never enter, or abandon the institutional reception facilities after a short or longer stay. Exploring the living conditions of the unprotected unaccompanied children and the reasons explaining the situation of their lack of protection constitute the foremost aims of the PUCAFREU research action.

¹⁹ *Ibidem.*, pp. 441-442.

The quantitative importance of this group is significant. The available statistics show that around half of the received unaccompanied children end up abandoning or being rejected from protection.

The most comprehensive statistics relating to this issue come from Italy where nearly ten thousand unaccompanied children have been reported to abandon or disappear from the first reception facilities between 2006 and 2010 (see figure 2 below). This number represents 42% of the total number of unaccompanied children cared in during the same five years period²⁰. Nevertheless, these figures show a decreasing trend as the equivalent statistics for the period 2004-2006 showed an average of 60% of unaccompanied children disappearing from first reception care facilities²¹.

In Belgium, for instance, between the beginning of May 2004 and the end of April 2005 it is estimated that over 60% of the received children abandoned the institutional care services where they were staying. Some of them only a few days after their arrival and in all cases before a guardian had been appointed²².

In France there are no available statistics on the number of unaccompanied children abandoning the Child Welfare facilities. Nevertheless, if we combine the existing data for 2003 and the first nine months of 2004, we can estimate that 43% of the received unaccompanied children abandoned the French institutional protection facilities during the first nine months of 2004²³.

Regarding Spain there are no consistent data regarding the number of unaccompanied children abandoning care at the national level but some exist at the regional level²⁴. According to

²⁰ GIOVANNETTI, M. (2012): "*I comuni italiani e le politiche di accoglienza dei minori stranieri non accompagnati*" at ANCI Cittalia I minori stranieri non accompagnati in Italia, IV rapporto ANCI Cittalia, page 82.

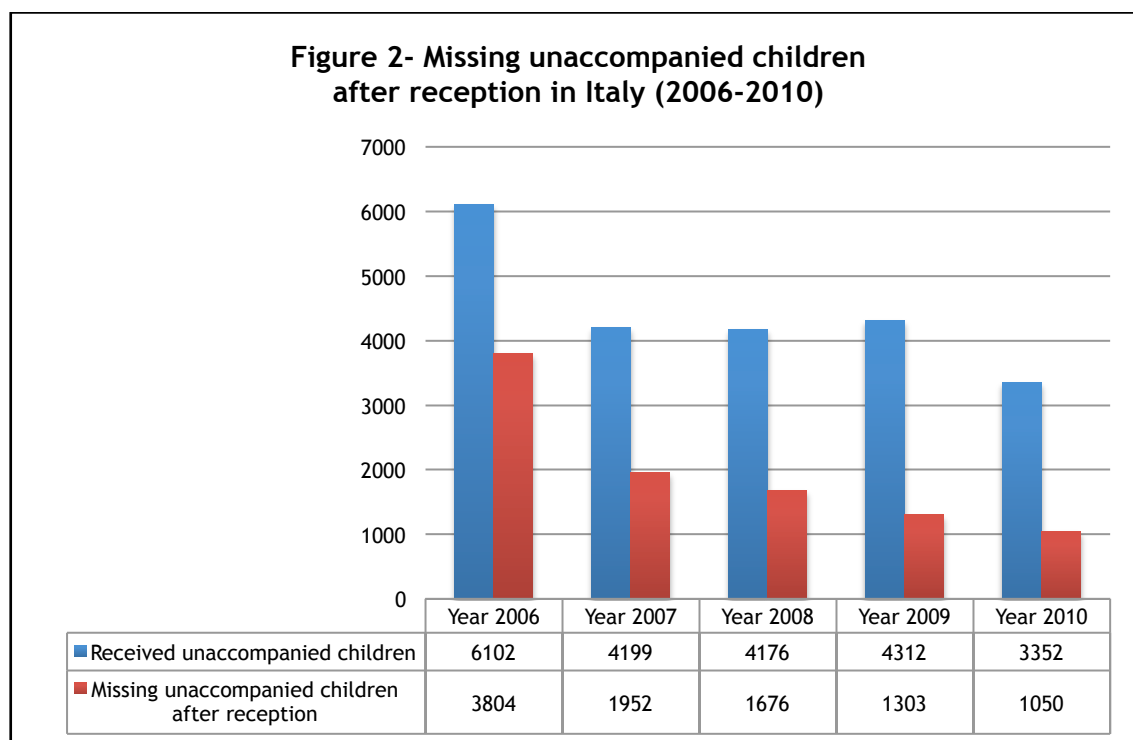
²¹ GIOVANNETTI, M., (2008): "*L'accoglienza incompiuta: la politiche dei comuni italiani verso un sistema di protezione nazionale per i minori stranieri non accompagnati*", Studi e Ricerca ANCI, Bologna: Il Mulino, page 231.

²² (2005): «*Rapport d'activité (mai 2004 à mai 2005) et Addendum (mai à décembre 2005)*», Service Public Fédéral de Justice, Direction de Législation, Libertés et Droits Fondamentaux- Service des Tutelles, Belgium: pp. 67 & 79.

²³ BLOCQUAUX, J. and al. (2005): "*Mission d'analyse et de proposition sur les conditions d'accueil des mineurs étrangers isolés en France*", Paris, Inspection Générale des Affaires Sociales- IGAS, Rapport 2005010 of January 2005: pp. 5-16 and annex.

²⁴ It is worth underlining that in Spain, Child Welfare and protection (and all social services in general) is a competence of the Autonomous Communities (regions). See article 148 section 1 alinea 20 of the Spanish Constitution.

the Basque Country Ombudsman, 70% of the received unaccompanied children in this territory abandoned the care facilities of their own will²⁵. Another survey of a sample of 232 unaccompanied children under institutional protection in the Autonomous Community of Andalusia shows that 58% of these children left the reception facility where they were accommodated²⁶.



The existence of unaccompanied children lacking protection is therefore a common situation in the four European countries studied in the framework of the PUCAFREU project. Besides children abandoning protection, we have to consider a number of unaccompanied children living in the European space that never have access to institutional protection and therefore remain unidentified.

Despite the measurable importance of unaccompanied children lacking protection in Europe, very little research has been done on their situation, their living conditions and the causes pushing

²⁵ See (2005): "*Situación de los menores extranjeros no acompañados en la Comunidad Autónoma del País Vasco*", ARARTEKO, Informe extraordinario de la Institución del Ararteko al Parlamento: pp. 71, 78 & 86.

²⁶ GARCÍA ESPAÑA, E. y PÉREZ JIMÉNEZ F. (2006): "*Análisis de la delincuencia en Andalucía*", Instituto Interuniversitario de Criminología, Universidad de Málaga, p. 103.

these children to refuse, abandon or be excluded from institutional care. The few existing analyses at European level are mainly based on the outlook of adults, mainly practitioners in contact with these children²⁷. Other existing studies focus on the situation of this group in specific local contexts²⁸ or on specific categories of children or young adults²⁹.

The PUCAFREU research has aimed at filling this gap of knowledge proposing an exploratory multinational comparative research on the situation of unaccompanied children lacking protection in four European Union Member States. The main innovation and contribution proposed is to gain knowledge by providing the children's own perceptions and views on their situation. Within the following section, we will explain in depth the methodological framework used, specifically the definition of the target group and the different strategies used to access this population.

²⁷ (2010): *"Disappearing, departing, running away: a surfeit of children in Europe?"*, Terre des Hommes, Geneva, 88 pages & (2009): *"Jeunes en errance: les conditions d'un retour- Étude de faisabilité sur la réintégration des mineurs isolés victimes de traite en Espagne, France, Italie, Albanie, Autriche, Roumanie"*, Forum européen pour la Sécurité Urbaine- Association Jeunes Errants / Fédération Jeunes Errants- Fondation Terre des Hommes.

²⁸ MAI, N. (2008-a): *"Opportunities and challenges for social intervention aimed at migrant minors"*, Save the Children Italia Onlus: Colourful Horizons project; BIGOT, R. (2006): *"Le parcours des mineurs isolés Roumains suivis par Hors la Rue et pris en charge par l'Aide Sociale à l'Enfance de Paris"*, Association Hors la Rue, France; BIGOT, R. and LEGAUX, J.P. (2009): *"Retours au pays de mineurs isolés roumains... avant un nouveau départ?"*, Association Hors la Rue, France, 32 pages.

²⁹ This is the case of Nick Mai's research on the young errants working in the sex industry within the European Union. See MAI, N. (2008-b): *"L'errance et la prostitution des mineurs et des jeunes majeurs migrants dans l'espace de l'Union Européenne"*, ITSET- Institute for the Study of European Transformations: London.

Chapter 2

The Common Methodological Framework

Section I- Methodology: Building a common comparative approach

Considering the multinational scope of the PUCAFREU research action, the time limitations³⁰ and bearing in mind the difficulties and boundaries which are inherent in any comparative research in legal and social concepts and/or groups³¹, the design of a common methodology to be equally implemented in the four different national contexts of the project, presented a major challenge at the starting stage of the research action.

In most comparative research studies in legal and social issues two main strategies or models are used to collect and process the information: in the first model, research is delegated in each territory that is being compared to one or more persons acting as correspondents under the supervision of the research coordinators (the *federalist* model); in the second model, a central researcher or team of researchers assumes the entire load of the research and being 'external' to some or all territories to be examined (*centralist* model)³². Both strategies present strengths and shortcomings: the method using correspondents often allows more detailed and precise knowledge to be obtained (based on the

³⁰ The PUCAFREU project spans 26 months between March 2011 and April 2013 included. Its research action has been implemented within the first 20 months of the project.

³¹ Oyen has highlighted the limitations and boundaries of comparative research. See OYEN, E. (1990): "*The imperfection of comparisons*" in E. OYEN (Ed.) "Comparative methodology: theory and practice in international social research", SAGE Publications, p. 15: "*It can be assumed that much research, comparative or otherwise, is guided by the principles of least resistance or invitation by opportunity. One of the central research strategies, although not much discussed, seems to be the preference given to available data and methodological tools, and the leaning towards accessible networks and funding. Many comparative projects would never have surfaced, had they not adopted such a strategy. Organizing for comparative research, involving two or preferably more countries, and taking into account as many of the theoretical and methodological considerations mentioned above in order to carry through a high-quality study, demands resources of such a magnitude in terms of money, time and personnel, that only relatively few sociologist will ever have the opportunity to control such funds*".

³² The terms *federalist* and *centralist* come from the models defined by Adam Podgórecki to classify comparative studies. See PODGORECKI, A. (1974): "*Law and Society*", London, Routledge & Kegan Paul Ltd.: pp. 107-108. See also FERRARI, V. (1990): "*Socio-legal concepts and their comparison*" in E. OYEN, Comparative methodology: Theory and practice in international social research, London, Sage Publications Ltd: pp. 63-80.

fact that local correspondents have a deeper understanding of their territory) but requires a strict coordination in order to avoid structure, content and style dispersions, and especially to explain and adapt the local and national terms and ideas to the whole of the comparison. Using the second model allows an easier coordination and avoids dispersions but its disadvantage is that it is more difficult to access information resulting in greater superficiality and reducing the precision of the results.

Considering the structure of the PUCAFREU network that includes a central coordination team based in France and four partner institutions based at the four countries being studied, the logical model to be adopted was a federalist one. Following this pattern, all institutions involved worked together in the negotiation and agreement of a common methodological approach. To this purpose, research officers (national correspondents) were recruited at the different partner institutions with the main task of implementing the fieldwork research stage, analysing the results obtained and drafting national reports. In order to counteract the above-mentioned limitations of this approach, the coordination team ensured a permanent communication with national research officers, following up and discussing their provisional results, evaluating the encountered difficulties and agreeing adapted strategies to overcome obstacles and optimise the results.

Several aspects determined the common methodological approach adopted in this research. These are: (1) The precise definition of the target group to be studied (unaccompanied children lacking protection); (2) The research questions and associated hypotheses; (3) Access strategies to members of this target group and obtaining their agreement to participate in the research as informants; (4) The methodological tools used to collect information.

(1) Definition of the target group

One of the key points largely discussed within the PUCAFREU network regarded the precise definition of the target group to be studied. Considering the lack of research on this category of migrant children, three hypothetical categories were established based on their situation and life conditions in the four countries of transit and/or destination of the project. These are:

- (a) Children who live by their own means- all alone or with a group of peers- whether in a situation of *errance*³³ or not and practising different activities (whether illegal or not) to ensure their survival;
- (b) Children who fall under the control of networks of adults, often putting them under constraint to commit crime and/or other lucrative activities (whether illegal or not depending on the national context);
- (c) Children who stay under private fostering arrangements, sometimes under the custody of other members of their enlarged family, compatriots or members of their national or ethnic community. These arrangements can on occasions, hide situations of domestic labour exploitation or other kinds of exploitation³⁴.

Considering the limited duration of the fieldwork action (between 6 to 9 months, depending on the country) and the potential difficulties in accessing members of the target group (we will further develop this aspect in section II), it was decided to make an extension of the categories of the target group based on their previous experience (or not) within child protection services. As a result, the following complementary subcategories integrated the target group of the research:

- (d) Children who are not protected at the time of the field research disregarding whether they have ever been protected by protection services or not;
- (e) Children who are protected at the time of the research but have a significant previous experience lacking protection;

³³ Mai builds a definition of *errance* based on the main patterns explaining the mobility of young *errants*: a cultural construction of Western societies as a world where upward social mobility is easy to attain; the perception of a rapid emancipation; the situation of social exclusion and marginalisation linked to their migration trajectory. See Mai (2008-b), *op.cit.*, pp. 25 and following. See chapter 3, section IV for a more detailed analysis on the interviewed children's mobility.

³⁴ The boundaries of the 'exploitation' factor between categories (b) and (c) could be difficult to distinguish. Initially it was considered that the (b) category refers to the existence of criminal networks who are exploiting the child while the (c) category refers to less organised exploitation. However, in practice, some cases are susceptible to overlap between the two categories. The permeability between the initial hypothetical categories will be commented in section II of this chapter.

- (f) Children who are receiving 'care a minima' accommodated in inadequate facilities (hostels or similar) without or with very limited social or educational support and follow-up;
- (g) Young adults who belonged to one or several of the above-described categories while underage.

The network undertook an extensive discussion regarding the advantages or disadvantages of focusing on a particular category of children during the fieldwork research. Finally, the consensus was to undertake a comprehensive equal approach to categories (a), (b), (c) and include (d), (e), (f) as complementary subcategories. The (g) subcategory was considered as subsidiary, as the main research objective would otherwise have been substantially modified. Within the selected categories and subcategories, all national origins and the diversity of existing situations were incorporated in order to enhance results as much as possible.

(2) Research questions and associated hypotheses

The aim of the PUCAFREU research project was to contribute to producing knowledge of the situation and living conditions of unaccompanied children lacking protection in Europe. To this purpose, the following general research questions were initially established:

- The description of unprotected unaccompanied children's everyday life, particularly their environment, daily activities, sources of income, relationships and interaction with other individuals or institutions, provisioning, accommodation possibilities, etc.
- The encountered difficulties of this target group to assert their fundamental rights, particularly access to social rights such as education, health care and housing.
- The reasons leading unaccompanied children to refuse and/or to abandon and/or to be excluded from the Child Welfare services provided for them in the different countries.

Three hypotheses corresponding to each research question were formulated:

1. Unprotected unaccompanied children often live in a vulnerable situation. To cope with their vulnerability, they may develop different survival strategies and often earn their living through illegal activities or minor crimes (prostitution, begging, drug dealing, pick pocketing, etc.) They can also be victims of trafficking or exploitation networks or be under the influence of an adult person under private fostering arrangements.
2. Unprotected unaccompanied children experience extensive difficulties in asserting their fundamental rights: apart from emergencies, they lack regular access to health care and are also excluded from the educational system. They also lack access to adequate housing.
3. Unprotected unaccompanied children refuse, abandon or are excluded from the institutional protection facilities for several reasons:
 - The inadequacy of the offered care services that do not respond to the children's real needs and expectations;
 - The lack of durable solutions allowing children to consolidate their immigration status in the country of destination once they turn 18;
 - The lack of information and awareness of their rights and their entitlement to care as unaccompanied children;
 - Other personal reasons, such as the pressure of their close network or environment, the need to produce income, etc.

(3) Strategies to access the target group

A major challenge during the fieldwork completed in the four research countries was to establish contact with members of the target group and to obtain their consent to participate in the survey as informants. Certain categories of children,

particularly those under the influence of adults seemed particularly challenging to approach.

The following common strategies were agreed upon in order to facilitate the approach to the three main hypothetical categories of the target group:

- The progressive approach to potential informants during a first process of observation;
- The support and implication of outreach workers (social workers, street and peer educators, lawyers, etc.) already in contact with members of the target group;
- The potential engagement in the survey of young adults who have previously been unaccompanied children lacking protection.

(4) Methodological tools

The lack of known patterns and data allowing us to set up a comprehensive sampling of the group to be studied in the different contexts determined the choice of a qualitative approach. The objective was to seek the concerned children's perception of the reality that they were facing or have previously faced - using their voice and own wording.

The collection of information was undertaken using qualitative tools. A combination of observation at public places where unaccompanied children lacking protection are visible together with implementation of semi-structured, individual or group interviews with members of the target group was used. Further individual interviews with adult informants (field practitioners and institutional actors working directly or indirectly contact with this population) were also used as a complementary tool to collect information.

Section II- Fieldwork execution in the different contexts: results obtained, strengths and shortcomings

(1) The geographical context of the survey

The survey was mainly executed in four representative large cities (and their surroundings) of the concerned countries: Brussels in Belgium, Paris in France, Turin in Italy and Madrid in Spain. Complementary short-term fieldwork actions were also implemented in Rennes (France) and Barcelona (Spain).

It is worth mentioning at this point that significant regional differences may occur, relating mainly to the models of reception of unaccompanied children in the different studied countries. These differences are particularly notable in France, Italy and Spain and are mainly due to State decentralisation models involving a distribution of competences to regional institutions or municipalities in terms of social services or Child Welfare. The reception of children in need in France is originally a competence of French departments and conditions and protocols of access to care differ widely from one territory to another³⁵. In Spain, Autonomous Communities have the duty of receiving and taking in unaccompanied children as well as assuming their guardianship. The reported differences of treatment and practices are also pronounced from one region to another despite a specific legislation providing a common protocol of reception for unaccompanied children³⁶. The competence to receive unaccompanied children in Italy engages social services of the different Municipalities. Noticeable different reception practices also exist all along the Italian territory³⁷. Finally, in Belgium, the existence of an *ad hoc* specialized

³⁵ There are one hundred departments in France, including five overseas territories. The different existing models of reception of unaccompanied children were firstly analysed at ETIEMBLE, A. (2002): *"Les mineurs isolés étrangers en France- Evaluation quantitative de la population accueillie à l'Aide Sociale à l'Enfance- Les termes de l'accueil et la prise en charge"*, Rennes, Quest'us, pp. 82-155. In 2005, a report insisted on the multiplicity of heterogeneous treatments to receive and care unaccompanied children in France. See BLOCQUAUX, J., BUSTIN, A., & GIORGI, D. (2005), *op.cit.*, pp. 21 and following. More recently, a report from the same agency (*Inspection Générale des Affaires Sociales*) confirms the heterogeneity of practices and treatments in the different departments. See AUBIN, C. & DURAND, N. (2012): *"Evaluation de l'accueil de mineurs relevant de l'aide sociale à l'enfance hors de leur département d'origine"*, Inspection Générale des Affaires Sociales- Rapport n° RM2012-005P.

³⁶ These differences are briefly mentioned in SENOVILLA HERNANDEZ, D. (2011): *"Unaccompanied and separated children in Spain: A policy of institutional mistreating"* in BHABHA, J. *"Children without a State. A Global Human Rights challenge"*, The MIT Press, Massachusetts Institute of Technology, Cambridge, pp. 151-176.

³⁷ See GIOVANNETTI, M., (2008), *op.cit.*, p. 173.

legislation for unaccompanied children and the attribution of the task to receive this group to a Federal Agency³⁸ would seem to provide a more homogenous treatment over the whole Belgian territory. Nevertheless, some differences may still occur in the protection approach of local and regional institutions of this last country.

The impact of this heterogeneity of reception models is difficult to measure but it is likely to determine the fate and even the profiles of the concerned unaccompanied children. In any case, it is of key importance to clarify that our research does not cover all the existing territorial nuances within the studied countries (this purpose would involve much wider fieldwork and larger financial means and human resources). Therefore, the validity of the obtained results of the PUCAFREU research project in the above-mentioned cities, which are among the most representative to the research purpose in the different national contexts, is to be extended to all other parts of these national contexts with due caution.

(2) A quantification of the obtained results

A little over one hundred interviews of children and young adult members of the target group were conducted in the four territories studied (see figure 3 below). A significant number of complementary interviews of adult informants were also performed in these different territories.

Firstly, these results show an overrepresentation of male informants in the sample. The lack of female informants could be explained by two correlative reasons. On the one hand, almost all encountered girls belonged to the (b) category (children under the control of networks of adults)³⁹. On the other hand, the sample shows an overrepresentation of (a) category cases (children living by their own means)⁴⁰. Access to cases of children under the control of adults or durably living in informal foster arrangements was greatly reduced. As a consequence, access to female informants was limited to those cases of girls who have managed to get away

³⁸ We refer to FEDASIL, *Agence Fédérale pour l'accueil des demandeurs d'asile*. See www.fedasil.be

³⁹ See section I (1) of this chapter concerning the definition of the target group.

⁴⁰ We will further analyse this distribution and the pertinence and permeability between categories below.

from their situation of exploitation and have started a new process of inclusion, most likely with the support of a specialized institution. Although all existing indicators show that unaccompanied children migrating to Europe are predominantly male, we cannot conclude to the inexistence of unaccompanied girls but only to their invisibility as a consequence of their (most likely) situation of exploitation⁴¹.

Figure 3- Number of interviews, gender and main countries of origin of informants

	Belgium- Brussels	France- Paris	Italy- Turin	Spain- Madrid & Barcelona
Number of interviews to members of the target group	26 interviews	25 interviews	25 interviews	27 interviews
Gender distribution	22 boys, 4 girls	25 boys	22 boys, 3 girls	23 boys, 4 girls
Main countries or regions of origin	Morocco Guinea	Afghanistan Mali Romania	Morocco Egypt Senegal	Romania Morocco West Africa

With regard to the national origins of the members of the target group that have participated as informants, the distribution of nationalities in our sample is partially consistent with the last available data regarding

⁴¹ Very few studies have so far focused on the situation of unaccompanied girls within the European context. Some of the few contributions on this issue are those of DESHUSSES, M. (2005): "Du confiage à l'esclavage: petites bonnes ivoiriennes en France", in *Cahier d'études africaines* n° 179-180: pp. 731-750; BARRAUD, E. (2008): "Les multiples usages sociaux de la Kafala en situation de migration: protection et non protection des mineurs recueillis", in D. SENOVILLA HERNÁNDEZ, *La migration des mineurs non accompagnés en Europe*, Revue EMIGRINTER n° 2: pp. 133-143; ALONSO, A. (2010): "En tierra de nadie. Migración y prostitución entre adolescentes no acompañadas de Europa del Este en Cataluña", in *Educación Social* n° 45: pp. 65-77.

unaccompanied children identified by authorities in the different contexts of the survey. The absences of certain national origins in our sample -which are representative according to official available statistics- can be explained by the fact that these children are under institutional care (this is the case of Afghans in Turin and Brussels).

In Belgium, we have mainly interviewed unaccompanied children from Morocco and Guinea that appeared to be the 4th and 3rd most representative nationalities in 2010, according to the official data⁴². The lack of cases of Afghan informants in our sample (Afghanistan was the most representative nationality in 2010 with almost 20% of the cases) is explained by the fact that most unaccompanied children of this origin are asylum applicants receiving a higher standard of protection than non-asylum seekers⁴³.

In Italy, we have found a similar situation to that in Belgium. Our informants come mainly and in this order from Morocco, Senegal and Egypt, which are the 5th, 7th and 4th most representative nationalities of received unaccompanied children at the national level in 2010⁴⁴. However, the lack of Afghan, Bangladeshi and Albanian children in our sample (most represented national origins in the 2010 statistics) is explained by the fact that these nationalities are either under protection (case of Afghans in Turin) or not representative in the context of Turin, a city with a long tradition of migration from the above-mentioned countries, particularly Morocco and Senegal.

Concerning France, the complete lack of data at national level regarding the number of children cared for and their nationalities does not allow us to draw any conclusions. Nevertheless, statistics referring to asylum applications made by unaccompanied children in the year 2011 show that Afghanistan is the second most represented country of origin⁴⁵ (first in our distribution sample). Apart from this, the

⁴² Source: *Service des Tutelles*, Federal Ministry of Justice.

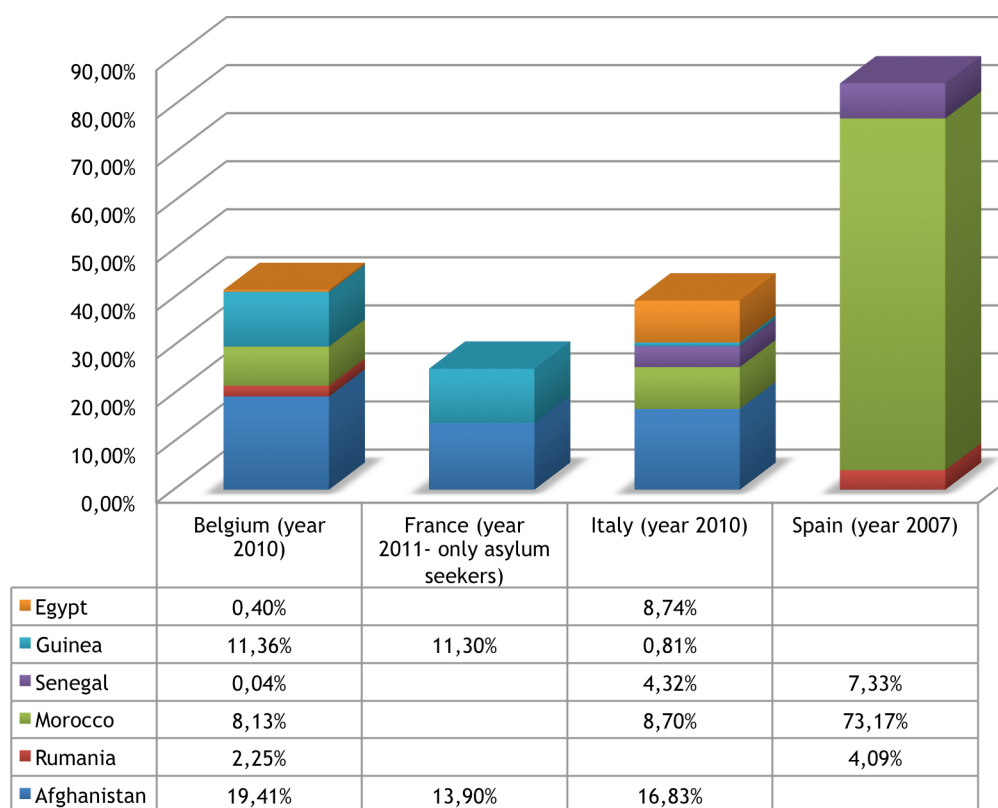
⁴³ The situation known as the 'crisis of the reception system' concerning adult asylum seekers but also unaccompanied children in Belgium has *de facto* generated two different levels of reception and care among unaccompanied children in Belgium. Those seeking asylum and the most vulnerable unaccompanied children non-asylum seekers receive a higher standard of protection than other unaccompanied children not belonging to these categories. For further information see chapter 3, section III of this document.

⁴⁴ Source: Giovanetti, M. (2012), *op.cit.*, page 59.

⁴⁵ Source: OFPRA, *Office français de protection des réfugiés et apatrides*, Annual report 2011: pp. 32-33.

two other nationalities represented in our sample (Mali and Romania) do not appear among the main nationalities of unaccompanied children seeking asylum the same year. However, the presence of Romanian children in the Paris region (unaccompanied or living with their extended family but often in a situation of risk) is well known since the late nineties and the early years of the new millennium⁴⁶.

Figure 4- Representativity of the main nationalities of origin of the PUCAFREU sample in the four national contexts studied (%)



In Spain, the last available data are from 2007 when Moroccan unaccompanied children still represented the foremost national origin⁴⁷. This marked predominance of one national origin contrasts with all other studied countries

⁴⁶ Regarding the presence of Romanian children in the city of Paris see VIDALIES, A., rapporteur (2001): « *Rapport n° 3459/2001 sur les diverses formes de l'esclavage moderne* », Assemblée Nationale Française.; (2003): « *Programme opérationnel "Rues de Paris" d'aide aux mineurs étrangers isolés. Rapport d'activités mars 2002-mai 2003* », PARADA France & (2009): « *Bilan d'activités 2008 de l'association Hors la Rue: Repérage et accompagnement vers le droit commun des mineurs étrangers en danger, isolés ou mal accompagnés* », Association Hors La Rue, Paris.

⁴⁷ Source: Official Journal of the Parliament of 29th of September of 2009, page 435.

where a mixture of nationalities is the rule. The other main nationalities of the interviewed members of the target group (young adults from West African countries arriving in the Canary Islands between 2006 and 2008 and Roma children from Romania) match the other main countries of origin (Senegal and Romania) represented in figure 4 above.

(3) Pertinence and permeability of the initial hypothetical categories

As previously mentioned, during the execution of our fieldwork action, the first provisional results confirmed an over-representation of informants initially matching with category (a), children living by their own means. The potential and likely difficulties to access children under the control of adults and children durably living in informal foster arrangements [categories (b) and (c)] were therefore confirmed very quickly⁴⁸. The invisibility and the fear of potential harm that could involve these children by contacting the research team explain our limited results concerning these categories. Extensive and durable fieldwork actions with the participation of outreach workers or peer educators capable to get in touch with this population and progressively gain their trust appear as the most appropriated strategies to study these categories. Indeed, the contacted cases within our research matching with our previous definition of the (b) category were in fact children or young adults who have been formerly in that situation and agreed to share their story and experiences. We have managed to get in contact with some children corresponding to the theoretical category (c), particularly in the Italian and Belgian contexts.

Another important aspect relates to the potential permeability of these categories, particularly between categories (a) and (c). Our findings show that a significant number of interviewed children and young adults have experienced periods living on the street as well as being fostered by extended family, peers or fellow compatriots. These fostering periods, particularly with extended family, often occur at the time of arrival of the child in the destination city. After an indeterminate period of time, multiple reasons (quarrels, misunderstandings, requests

⁴⁸ Please refer to section I (1) of this chapter for an extensive explanation of the different categories.

from the foster family to contribute to the household economy that can not be fulfilled by the child) may lead to the child leaving the family and switching to a situation of complete autonomy. Other temporary foster arrangements with friends or peers are often linked to the activities realized by the child to ensure his/her survival, or are an expression of community or ethnic solidarity.

Another finding relating to the pertinence of the categories is the fact that a large majority of informants have spent periods both inside and outside institutional protection. The situation of lack of protection can occur prior to the definitive unaccompanied children's access to institutional care facilities or as a consequence of his/her exclusion for different reasons (abusive age assessment practices, expulsion from care for disregarding the rules, etc.). Other children combine successive periods being protected and lacking protection. We have found that these changing situations may also influence the hypothetical categories of the research, as children can switch between categories before and after a period inside protection.

Summing up, the hypothetical categories of members of the target group set up by the PUCAFREU methodology seem pertinent in describing current and concrete situations that unaccompanied children can experience during their migration. However, the continuous changes that many of these children experience in their life conditions seem to indicate against setting up closed and inflexible categories in order to durably describe their profiles.

(4) Implementation of the fieldwork research

The fieldwork process lasted approximately 9 months in each territory, starting during the summer of 2011 and ending during the spring of 2012. Even if there have been slight differences between the starting and closing dates, depending on the context, the fieldwork actions were simultaneously implemented in the different studied countries.

A preliminary stage prior to the fieldwork implementation was devoted to exchange with the different national correspondents in order to clarify the various aspects of the

methodological framework and discuss the adequate adaptation to the particularities of each local context⁴⁹.

The first stage of the fieldwork process involved approaching, contacting and requesting members of the target group to participate as informants in the survey. Two of the three initial strategies for this purpose (a period of observation at those locations of the public space where members of the target group were visible and using the support of outreach workers in contact with these populations⁵⁰) were indistinctly or alternatively used by all involved partners. In contrast, the strategy consisting of requesting the support of young adults (former unprotected unaccompanied children) to collaborate in the survey as members of the research team was finally impossible to put to practice due to the limited available time for the implementation of the fieldwork process⁵¹.

Providing a more detailed outlook of the implementation of this approaching and contact stage in the different national contexts:

- In Belgium, both mentioned strategies (observation and contact through outreach workers) were used and varied mainly depending on the profiles of the targeted population. Certain unaccompanied children lacking protection were contacted through observation in a central public garden known to be a point of soft drug dealing. These contacts were not really effective as the approached children were often suspicious of the presence of the research officer in this space (suspected to be a police officer) and appointments for interviews were not fulfilled. Still, successive informal talks with members of the target group in this public space provided valuable information on life conditions and survival strategies of unaccompanied children living on the street. Contacts with potential informants

⁴⁹ For this purpose, different meetings were held at the partner institutions' headquarters to review and coordinate the different aspects of the fieldwork execution (target group, strategies to access, methodological tools, calendar, recruitment of research officers, etc.) All these meetings took place between April and June 2011. Each partner recruited the research officer in charge of implementing the fieldwork research during the summer of 2011.

⁵⁰ See section I (3) of this chapter for further information.

⁵¹ Although we still consider that this would be an adequate strategy to optimise the results of a survey on this population [see section II (5) below], its implementation involves a long and time-consuming previous process of coordination and training of the members of the target group integrating the research team.

through outreach workers were finally prioritised and were significantly more efficient. Nevertheless, this path certainly determined the profiles of the contacted unaccompanied children as a vast majority had had a previous contact with institutional care actors or support organisations.

- In France, both strategies were also used, but field observation was favoured. In the first stage, extensive observation was undertaken at informal camps mainly inhabited by Roma population in the Paris surroundings. However, adults- sometimes members of the extensive family- were unwilling and blocked all efforts of the researchers⁵² to approach children living at these camps. Some Roma children were interviewed (always in the presence of elderly adult brothers or parents) but this strategy soon appeared to be time-consuming and barely effective. Another observation process was initiated (end of 2011) in central Paris, specifically in the 10th district, where there is a significant presence of unaccompanied children living on the street while waiting to be admitted into care⁵³. This new observation process was much more efficient and allowed for a large number of interviews as well as the collection of valuable information on the conditions and obstacles that these unaccompanied children experience in accessing institutional protection. Besides this, a number of key actors and outreach workers working with this population were contacted during the fieldwork process. This constituted a valuable support to enlarge and complement the obtained results.
- With regard to Italy, a very efficient strategy of approach was adopted. Peer educators working at a project supported by the municipality of Turin were contacted to collaborate during the research process⁵⁴. The previous knowledge of these outreach workers of a number of cases of the targeted children and young

⁵² This observation was undertaken by the research officer recruited for PUCAFREU accompanied by a representative of the partner institution with extensive experience working with Roma population. Despite this, their presence in the camps was not always welcome and constituted a source of tension.

⁵³ See chapter 3 for further details.

⁵⁴ These peer educators worked at the project "*Una Finestra sulla Piazza*". More information on this project is to be found at the following link: [Finestra sulla Piazza](#)

adults facilitated contact and enabled the Italian research team to obtain results rapidly. In addition, these outreach workers also accompanied the research team during observation, allowing the easy targeting of the adequate places as well as providing information on the nuances of the situations observed. Moreover, other key informants at different institutional and private organisations specialized in working with this population were contacted allowing access to unaccompanied children living in informal fostering arrangements and invisible in the public space.

- In Spain, the lack and invisibility of unaccompanied children lacking protection at the city of Madrid made observation in the public space impractical. Some cases of unaccompanied children living on the street (predominantly Moroccans) were recorded a few years ago and some specific programmes to cope with these situations were supported by the Municipality⁵⁵. However, financial cuts in social services have caused the disappearance of these programmes and the progressive invisibility of these children. As a consequence, the strategy of accessing members of the target group through the participation of outreach workers in contact with this population was prioritised. Some of these outreach workers got particularly involved in the fieldwork process and assisted the research team in its implementation. This was specifically at a shantytown close to Madrid where a number of Roma children (often living with extended families) were identified⁵⁶. Considering the limited presence of potential informants in Madrid, it was soon commonly decided to widen the scope of the fieldwork research to the city of Barcelona. Again, different outreach workers were consulted allowing us to complete our sample of informants.

Regarding interview implementation, the duration and the development varied and depended on different factors, such as the children's origin and general profile, but also their own individual personality, the degree of trust of the child in the researcher, the environment and previous experiences.

⁵⁵ Report on the CHISME programme- *Strategies of action with children living on the street*, PAIDEIA, 2006, not released.

⁵⁶ See chapter 3, section I.

Some children were highly motivated to talk and even seemed to 'need' it, while others seemed much more reluctant. The degree of maturity of the interviewee is a factor to bear in mind and, as a general rule, young adults or older children seem more ready to talk and express their feelings than younger children. The interview settings were variable and included public (coffee bars, restaurants, public gardens, etc.) and private spaces (mainly NGO's headquarters and, on occasions, the own interviewee's private space). The presence of an adult that the child trusted during the interview, such as their reference social worker or educator, was often an important asset to allow free expression. Furthermore, previous background interviews with the practitioners who facilitated contact with the children were generally very useful to prepare for the interviews, as well as to identify bias in discourse.

(5) Methodological strategies for further research

In this chapter we have mentioned the difficulties encountered in approaching members of the target group and the objective obstacles (fear, reluctance) to collect a structured and non-biased discourse. We consider these to be indicators to be allowed for in the planning of further research in this field, which should include longer-term fieldwork periods (at least 15 to 18, but ideally 24 months) in order to obtain larger scale and solid results and avoid bias.

Furthermore, the limits of the use of a combination of field observation with interviews to collect information with migrant children allow for combining these standard tools with other more innovative approaches. We consider that involving members of the target group during the fieldwork process may optimise the collection of information. These children and/or young adults will be able in most cases to put their peers at ease in order for them to open up during interviews. Besides potential positive outcomes of the research action, involving former unaccompanied children may have an enhancing effect on their lives, increasing their self-esteem and providing them with an opportunity to gain recognition for their contribution.

Nevertheless, the methodology implemented for the PUCAFREU research has allowed the team to obtain a first overview on the life conditions of unaccompanied children

lacking protection in Europe and the reasons explaining this lack of protection. These findings are presented in chapter 3.

Chapter 3

Findings of the PUCAFREU comparative research

A first analysis of the hundred interviews with members of the target group in the four contexts studied, as well as of the interviews with key informants and the fieldwork observation notes, allows us to provide an insight into the situation and life conditions of unaccompanied children lacking protection in Europe. Our findings are presented here in four core themes corresponding to the planned research questions. These are:

- (1) An overview of the profiles and life conditions of unaccompanied children lacking protection as well as the conditions required to assert their fundamental rights, particularly social rights such as housing, health care and education;
- (2) A description of unaccompanied children's experience (if any) within Child Welfare services;
- (3) The main reasons explaining unaccompanied children's situation of lack of protection;
- (4) Mobility as a form of unaccompanied children's agency.

Section I- Profiles, life conditions and access to fundamental rights of unaccompanied children lacking protection in Europe

As underlined in the chapter on methodology, the vast majority of the unaccompanied children met had spent alternating periods of being protected with periods of lack of protection since their arrival in Europe.

In some cases, lack of protection had occurred before their first access to institutional protection facilities. This lack of access can be explained by different reasons, such as lack of information caused by the influence of the child's entourage or institutional practices blocking effective access to care⁵⁷, and may last from some days to several years.

In other cases, unaccompanied children had been received in institutional care upon arrival and later had become unprotected after voluntarily abandoning the care facilities or after being excluded for other reasons (age assessment declaring adulthood, expulsion from facilities following infraction of the rules, etc.)

Finally, certain unaccompanied children had spent fluctuating periods inside and outside protection. These fluctuations can be explained by their willingness to explore different opportunities and can also be linked to the unaccompanied child's ability to be on the move⁵⁸. Our interviews show how a number of children had spent previous periods (whether under protection or not) in another region or even in another country before arriving at the location where a fieldworker met them. Others expressed their immediate plans to move to another European Member State⁵⁹.

In this section we will firstly provide a more detailed outlook of the various profiles of children met in the different contexts of the survey, highlighting the diversity of situations encountered. Secondly, we will describe the main activities of these children in their everyday life. Finally, we will explore the conditions that they face to exert their social rights, in particular access to housing, education and health care.

⁵⁷ The evoked reasons will be further analysed on section III of this chapter.

⁵⁸ The unaccompanied children's mobility has been analysed in previous studies. See for instance the recent UNHCR report: BORGUI, P. & SANTAROSSA, C. (2012): *"Protecting children on the move: Addressing protection needs through reception, counselling and enhancing cooperation in Greece, Italy and France"*, United Nations High Commissioner for Refugees, 106 pages. See also BOLAND, K. (2010): *"Children on the move. A report on children of Afghan origin moving to Western countries"*, United Nations Fund for Children- UNICEF, 70 pages.

⁵⁹ This aspect will be detailed in section IV of this chapter.

(1) Profiles of unaccompanied children lacking protection

The results of our survey show a marked variety of profiles and situations that unaccompanied children had to face depending on the geographical context studied. Bearing in mind the hypothetical categories of children described in chapter 2 of this document (children living on their own means, victims of trafficking and children in informal fostering)⁶⁰, we can draw the following outline.

In Brussels, we met a significant number of children and young adults coming from North Africa, particularly from Morocco, and matching the category of children living on their own means. Many of these children had spent a certain time in Spain (whether protected or not) before moving to Belgium, mainly due to the economic breakdown and lack of opportunities in the former. The presence of victims of trafficking or children living in informal foster arrangements is significantly weaker in our results and concerns mainly children of Sub-Saharan Africa.

In Madrid, the most represented group was that of former unaccompanied children coming from West Africa countries, all of them arrived at the Canary Islands during the period known as the 'crisis of *cayucos*' (2006-2008)⁶¹. Due to the lack of adequate reception facilities, many of the unaccompanied children received in the Canary Islands region were transferred and distributed across continental Spain. The group met in Madrid had been systematically rejected from care facilities on the basis of the results of age-assessment examinations.

⁶⁰ See Chapter 2, section I (1).

⁶¹ The term '*cayuco*' refers to the traditional fishing boats used in West African countries, particularly in Senegal. Between 2006-2008, more than fifty thousand irregular migrants arrived to the Canary Islands after a hazardous sea crossing. According to the numbers provided by the UNHCR, 2.808 of them were identified as unaccompanied minors. Since 2009 new arrivals decreased massively. For further information see ROBIN, N. & SENOVILLA HERNANDEZ, D. (2010): "*The migration of unaccompanied & separated Senegalese children to Spain*" in D. SENOVILLA HERNANDEZ and al., Migrating alone: unaccompanied and separated children's migration to Europe, Editions UNESCO, Paris: pp. 143-154. For the quoted statistics see (2009): "*Refugee protection and international migration: a review of UNHCR's role in the Canary Islands, Spain*", Genève, UNHCR- United Nations High Commissioner for Refugees, Policy development and evaluation service: 56 pages, appendix H.

The second largest group of children encountered in Madrid was of Roma ethnicity, living in most cases with extended or nuclear family at a slum known as '*El Gallinero*', situated at an inner-city area in the South East of the city called the '*Cañada Real*'. These children face extremely harsh living conditions, rarely attend school once they are on their teens and are on occasions forced to commit crime by their closed entourage (for a more detailed outlook on this group, see page 49).

In Barcelona, some former victims of trafficking from Romania and Nigeria were met (all of them looked after and recovering from this traumatic experience by the time of the survey).

Another relevant group identified in Barcelona was that of unaccompanied Moroccan children living with extended family under informal fostering arrangements. Their situation was very precarious as foster families did not desire their presence and/or had no means to look after them properly.

In Paris, in the 10th district, we were in contact with a heterogeneous population, many of them coming from Asian countries (in particular Afghanistan) and to a lesser extent Africa (Mali is the most represented country of origin from this continent). If most of these children could be defined as part of the category of children living on their own means, the particularity is that all of them were living on the street or hosted in informal arrangements while waiting to be admitted into the Child Welfare system (the waiting period lasted for several weeks or even months at the time of our survey).

In Rennes, most observed unaccompanied children were seeking asylum and came from Central Africa (particularly, Democratic Republic of Congo and Angola)⁶².

Finally, in Turin two predominant profiles of Moroccan children living by their own means were encountered: unaccompanied children coming from rural areas of central Morocco (mostly around the city of Khourigba) and others from the conurbation of Casablanca. The former had migrated as a part of a family strategy (their parents had

⁶² Apart from some informal exchanges and interviews with adult practitioners and key informants, no interviews with unaccompanied children were conducted in this context.

paid a smuggler, normally a fellow countryman previously based in Italy, and they had travelled using fake documents). The latter, many already living on their own means in the context of origin, had migrated fully independently as a process of character building, using free- and therefore very dangerous- means of transportation.

Other representative groups met in Turin were those of Senegalese boys, most of them coming from the Louga region, and of Egyptians. Both groups remained comparatively invisible and stayed in most cases in informal foster arrangements with members of their national community.

(2) Daily life of unaccompanied children lacking protection

Two general patterns can be drawn on how unaccompanied children spend their time while they are unprotected. These can take place more or less simultaneously.

- A significant number of unaccompanied children lacking protection were engaged in illegal activities such as the sale of narcotics or petty crime to firstly, ensure their daily survival and further, earn their living. Street drug dealing, pick-pocketing, street robbery or selling counterfeit goods appeared to be their most common activities.

Though we have also found cases in the other contexts of our survey, this pattern is particularly clear in the context of Turin where Moroccan and Senegalese unaccompanied children integrate immediately after their arrival in a more or less organized network conducting them to criminal acts, particularly the sale of narcotics. Although adults may intervene in these processes, the unaccompanied children involved do not initially appear as victims of exploitation and seem to be living by their own means. Nevertheless, as we will further analyse in section III of this chapter, the environment and the influence of the national community in the destination context may play an important role in the children's involvement in illegal activities.

A 19 year old young adult from Morocco responded to our question on what he had been doing after abandoning a reception facility when he was a minor:

"I started dealing drugs... just like all the other children"

Yet, some children sought other ways of income that seemed ethical to them. This was the case of an 18 year old from Senegal who explained how he managed to earn 'good money' selling counterfeit goods instead of 'bad money' (selling drugs):

"So I went around and met several guys who suggested me to sell things I didn't like, such as drugs and this kind of things. And then I met this guy who was selling counterfeit goods in the market. To avoid selling drugs I started selling these things..."

In the case of girl victims of trafficking, the few cases we encountered were involved in the sex industry. Obviously, the daily presence of these children in the public space as well as their activities are watched and under the control of the persons exploiting them. In most cases they must pretend that they are not underage.

An interview with a young woman, former victim of trafficking⁶³, corroborated this description:

"All money I earned I could not spend it, I have to give it to him. And if I was hungry, I had to wait for him to come... There were always another girls watching out at me to see what I was doing"

"The period I was on the street I could not talk to anyone, nobody knew I was underage"

Although previous studies refer to this situation⁶⁴, we have not found any unaccompanied male children working in sex industry in this research⁶⁵.

Concerning Roma children from Eastern Europe living with parents and extended family in shantytowns in the surroundings of Madrid and Paris, our interviews did not

⁶³ Considering the small number of interviews with female informants and in order to ensure full confidentiality, we have decided not to provide the age and national origin of the informant nor the context where the interview took place.

⁶⁴ See for instance MAI (2008-b), *op.cit.*

⁶⁵ Although some children we have met did not mention or denied during an interview working in prostitution, later exchanges with outreach workers in contact with them revealed their occasional involvement in this kind of activities.

provide much information as to their activities. Still, outreach workers in regular contact with them mentioned their involvement in begging and petty crime, mostly burglary at private factories or public facilities of different materials (cooper cables, tools, etc.), and often under the control of the members of their extended family or community.

- Many interviewed children in all national contexts referred to longer or shorter periods of inactivity. These periods 'doing nothing' usually occur while waiting to be received in the care system or receiving inadequate care or while being informally fostered by extended family, friends or compatriots.

It is worth clarifying that inactivity is in most cases a consequence of receiving inadequate care or lacking protection. This situation appears clearly in the case of children waiting weeks and even months to access to institutional care in Paris or children accommodated for extensive periods at hotels (this is a regular practice mainly in Brussels and again in Paris). During these 'waiting periods', the concerned children do not benefit from adequate educational or social support apart perhaps from insufficient language courses. These children consider that this state of inactivity seriously compromises achieving the initial expectations associated with their migration and life project. Coping with these periods is often a major source of anxiety and stress, particularly as the concerned children are insufficiently informed and do not understand what they consider to be 'a waste of time'.

A 19 year old Afghan described these periods of inactivity:

"There are mornings I wake up and there are others I sleep until 11 or noon. After I go to the park. There is nothing else to do. If I wake up in the morning, what do I do until the evening? ... That's why I sleep in the mornings and go out in the afternoons"

Roma children living in the “Gallinero”, Madrid

by José David Gutiérrez Sánchez, Social Worker

The ‘*Gallinero*’ is a slum inhabited by Roma people, mostly coming from the area of Tandarei, West Romania. The slum is located on a private land, a former chicken farm (meaning of ‘*Gallinero*’), 14 kilometres from the city centre of Madrid. The origin of this shantytown dates from 2004. Currently, 90 families and around 400 people, half of them underage, live in this Roma settlement, which is considered to be one of the largest in Europe.

The land of the settlement is particularly steep, provoking frequent flood, garbage accumulation and insects and rodent infestations (see picture below). The main activities and sources of income of the Roma community living in the ‘*Gallinero*’ are begging, sale of small items (clothes, scrap, etc.), informal loans of money, charities and petty crime (theft of tools, copper, etc.)



The ‘*Gallinero*’, Photo of Jose David Gutierrez Sánchez, 2011

Living conditions for children in this context are particularly harsh. Despite certain differences may occur from one family to another, two broad stages may be drawn. Children under 12-13 years old still live in their family environment (nuclear or enlarged) and attend school regularly. Children over 13 years old are progressively preparing to adulthood. They start assuming different responsibilities and are involved in activities to ensure income, mainly begging, undeclared work or petty crime. Absenteeism from school becomes a regular pattern from children in this age group. Girls are often doubly discriminated against, as many are victims of forced marriage and are compelled to abandon school to take charge of housekeeping tasks and to look after younger children or older relatives. Broadly speaking, all children, but still particularly girls, are confronted to a context of marked violence and exclusion.

Roma children living at the ‘*Gallinero*’ find themselves in an extreme situation of vulnerability. As children often living with nuclear or extended family, they are ‘de facto’ not considered by the relevant authorities as unaccompanied children and therefore excluded from State protection. Moreover, their access to fundamental rights, and particularly basic social rights as education and health care, is seriously compromised. It is fundamental to conduct further research on the situation of children of this community living in Europe in order to launch a constructive debate on the different possibilities of action to tackle their current situation of exclusion.

(3) Access to social rights

- Housing

Children living on the street

In terms of accommodation, unaccompanied children lacking protection combine sleeping rough on the street (using sleeping bags and/or tents), abandoned houses, disused factories or subways (if their presence is tolerated). During our survey, the presence of unaccompanied children lacking a home and living on the street appeared clearly in Paris, Turin and Brussels. In Madrid, no cases were identified during fieldwork even though a number were reported some years ago⁶⁶.

Living conditions for this group, particularly in winter, can be extremely harsh. The research team visited an abandoned factory in Turin where a large number of unaccompanied children and young adults had lived before a recent Police raid. Some children and youth were still living there at the time of the visit. The scene was shocking: doors and windows were gone, there was broken glass and industrial wreckage everywhere and in some of the existing 'rooms' there were some old mattress and blankets. Hygiene conditions were deplorable with rubbish and debris everywhere and only one water-point which was outdoors⁶⁷.

Despite these challenging living conditions, the unaccompanied children living in this place still keep their sense of humour and call it 'The Hotel'. A Moroccan young adult, 19 year old, talked about his experience living in this abandoned factory while he was still underage:

"We had blankets, we had everything. We had money⁶⁸ so we bought new clothes every two days. You throw your clothes away and you buy new ones, because you don't have a home"

⁶⁶ See footnote 55.

⁶⁷ The visit took place the 1st of December 2011. See pictures in the following pages.

⁶⁸ This informant earned money as a drug dealer during this period. This regular source of income allowed him to cope with his difficult situation living on the street. Although this informant refers to this period of his life as terrible, he still keeps some good memories of friendship with peers.



Access to an abandoned factory in Turin - known as the 'The Hotel'- where a group of unaccompanied children live, mainly from Morocco
Photo- Daniel Senovilla, 2011



Abandoned factory- 'The Hotel'- in Turin. View from the courtyard
Photo- Daniel Senovilla, 2011



A room of 'The Hotel' in Turin
Photo- Daniel Senovilla, 2011



Another room of 'The Hotel' in Turin
Photo- Daniel Senovilla, 2011



Water point outdoors at 'The Hotel', Turin
Photo- Daniel Senovilla, 2011



'The Hotel', Turin. View of the courtyard from the inside
Photo- Daniel Senovilla, 2011



'The Hotel', Turin. A young person leaves the premises
Photo- Daniel Senovilla, 2011



'The Hotel', Turin. View from the courtyard
Photo- Daniel Senovilla, 2011

In Paris, we identified a number of unaccompanied children from Afghanistan, Bangladesh, Pakistan, Mali and Senegal, amongst other national origins, sleeping on the street or at inadequate shelters while waiting to be admitted into care by relevant authorities. Since late 2011, an *ad hoc* system called PAOMIE⁶⁹, run by a well-known national NGO, constitutes a necessary step- and according to our analysis also a filter- for unaccompanied children to be accommodated and protected in the municipality of Paris. According to one of the representatives of this service⁷⁰, the staff members undertake an evaluation process based on three main criteria: (1) The age of the concerned child; (2) His/her situation as unaccompanied; (3) His/her actual settlement in the city of Paris.

Following this evaluation process that can involve several interviews, children are classified into one of three categories: (a) Those assessed to be younger than 16 years old; (b) Those assessed to be 16 to 18 years old; (c) Those to be over 18 years old or not considered as unaccompanied. According to the same source, after the evaluation process, the members of the first group are immediately referred to the relevant institutional protection services of the municipality of Paris; the members of the second group integrate into an *ad hoc* plan mainly providing shelter (74 places at hotels and 50 places at a residential centre) and some educational support (language courses and other educational activities⁷¹); finally, members of the third group are initially refused any protection and invited to submit a direct claim to the relevant Justice and Child Welfare services⁷².

Summing up, the current situation of unaccompanied children in Paris involves the setting up of different degrees of care based on a random evaluation of the age as well as directly excluding age-disputed cases and those assessed not to be settled in Paris or '*non-unaccompanied*'. Furthermore, during periods where a peak of new arrivals

⁶⁹ PAOMIE- *Permanence d'accueil et d'orientation des mineurs isolés étrangers*. More information at the following link: [PAOMIE](#)

⁷⁰ Interview with Mr. Durand at the PAOMIE headquarters the 14th of January 2013.

⁷¹ The PAOMIE's representative met provided no details on the regularity of these educational activities.

⁷² According to other consulted practitioners and outreach workers, members of this third group are *not* invited to submit a direct claim to the Justice or Child Welfare services. Instead they receive a document including some broad practical information for immigrants (either children or adults).

occurs, the above described evaluation process can last for several weeks, even months, during which children must get by to find a place to stay.

The following statement of a 16 year old Nepalese child illustrated this situation:

“I am still waiting for that hotel. Every time I go and ask somebody at the reception, they say ‘No, you still have to wait for another two or three months’ (...) I want a place to live. I want my process to be faster, as soon as possible. Because right now, it’s just a waste of time...”

PAOMIE also manages an overnight shelter for unaccompanied children in transit living on the street⁷³. The available places are 50 during winter and 25 during the rest of the year. During the time of our survey, the selection to allocate the available places took place in the middle of a busy square in the 10th district of Paris. All candidates were distributed into two ranges and selected or not by the PAOMIE representatives under random criteria (‘officially’ the degree of vulnerability and the youngest age⁷⁴, both assessed after quick eye-contact). Those selected could spend the night at a gymnasium. During our regular observations of these ‘selections’ (Winter to Spring of 2012) there was constantly a group varying between 15 to more than 40 unaccompanied children who were not selected and therefore obliged to spend the night by their own means. Since the summer of 2012, selections have no longer been taken in the public space but inside the PAOMIE headquarters.

⁷³ According to Mr. Durand (see note 70), unaccompanied children in transit in the city of Paris do not request access to institutional protection and, hence, are not part of the population evaluated at the PAOMIE plan.

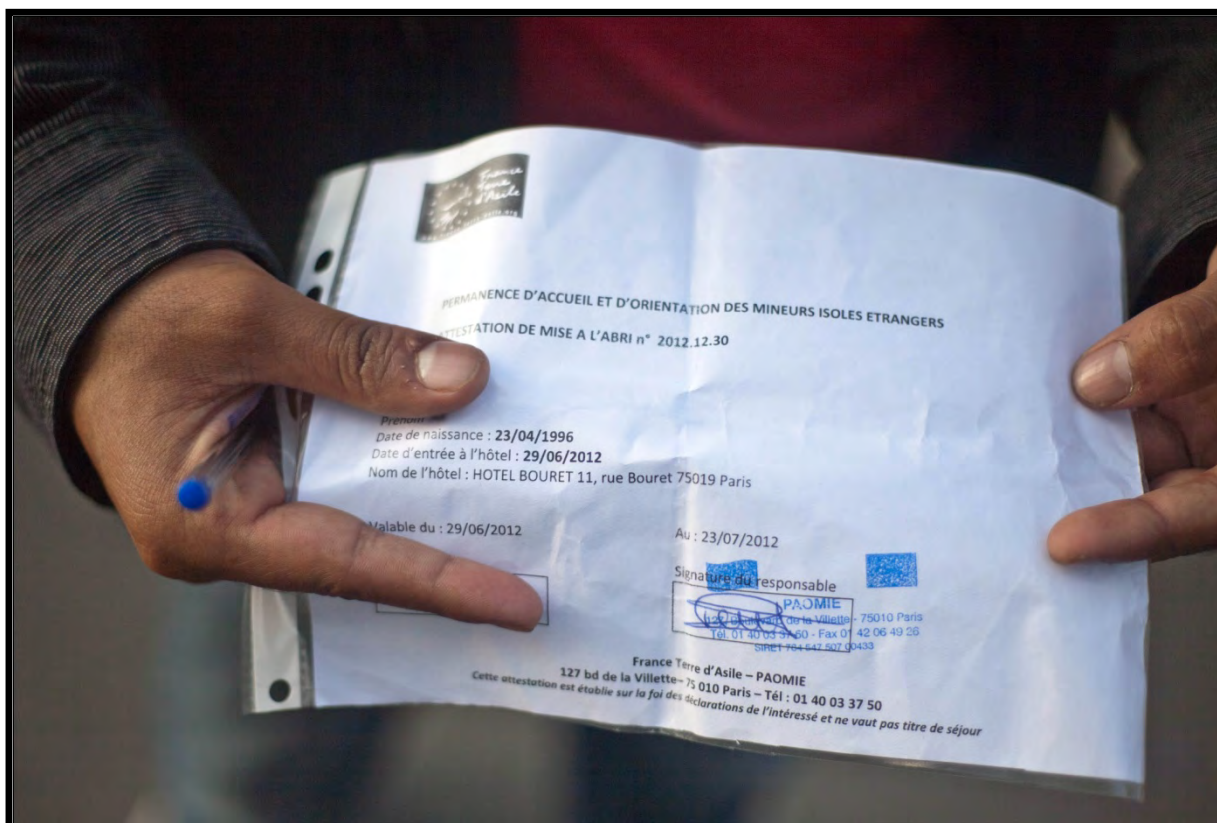
⁷⁴ See note 70.



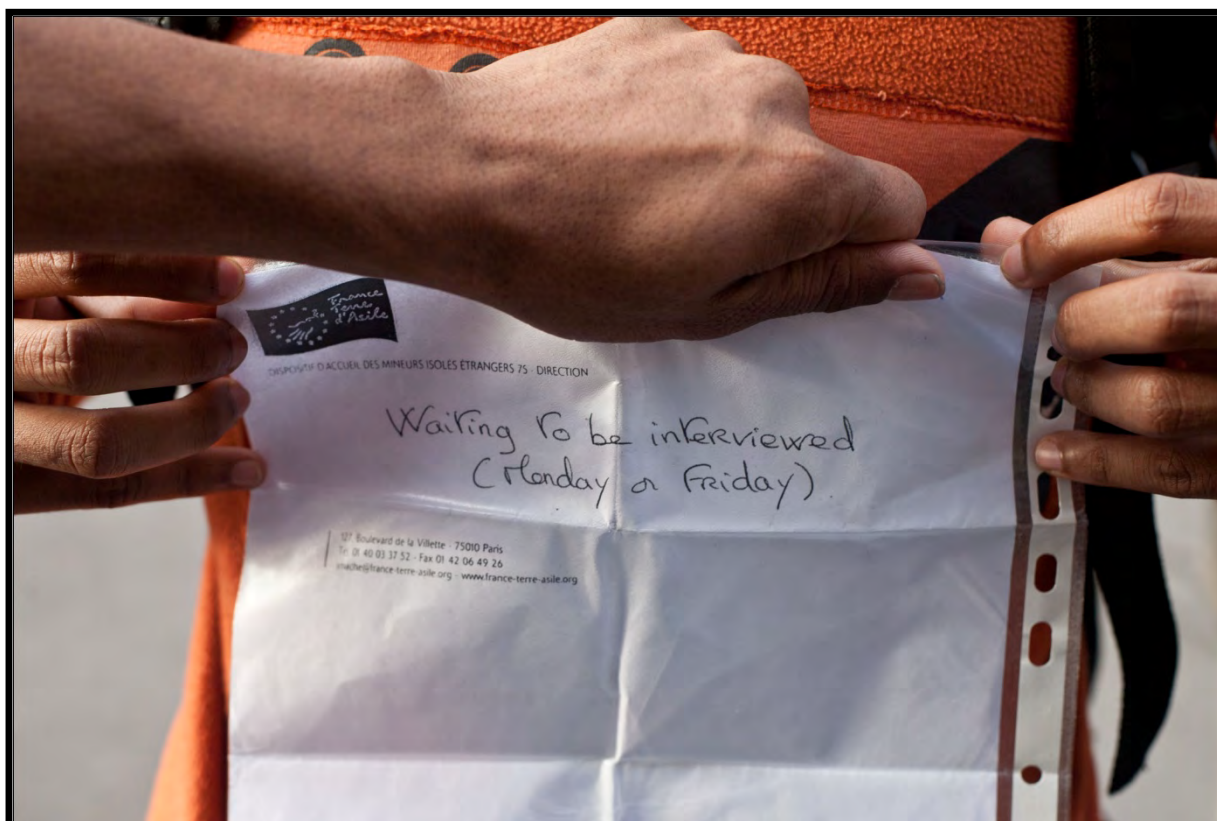
Afghan youths at a Paris park near PAOMIE headquarters, Paris 10th district
Photo- Julien Faure, 2012



PAOMIE headquarters seen from the outside
Photo- Julien Faure, 2012



This unaccompanied child has obtained a place at a hotel. He is now sure of having a roof, but only for a few weeks
Photo- Julien Faure, 2012



This youth, who arrived in France a week ago, is still waiting to be interviewed by the PAOMIE evaluation system. This waiting period is particularly challenging and stressful for most of the unaccompanied children we encountered
Photo- Julien Faure, 2012



R., 16 years old, is from Pakistan. He arrived in France transiting through Turkey and Italy. He stayed 10 days sleeping on the streets before being admitted into a shelter
Photo- Julien Faure, 2012



After a long waiting period, this 16 year old Nepalese was finally accommodated
Photo- Julien Faure, 2012



PAOMIE overnight selection, Place du Colonel Fabien, Paris, 14th of March of 2012
Photo- Daniel Senovilla Hernández, 2012



PAOMIE overnight selection, Place du Colonel Fabien, Paris, 19th of April of 2012
Photo- Daniel Senovilla Hernández, 2012



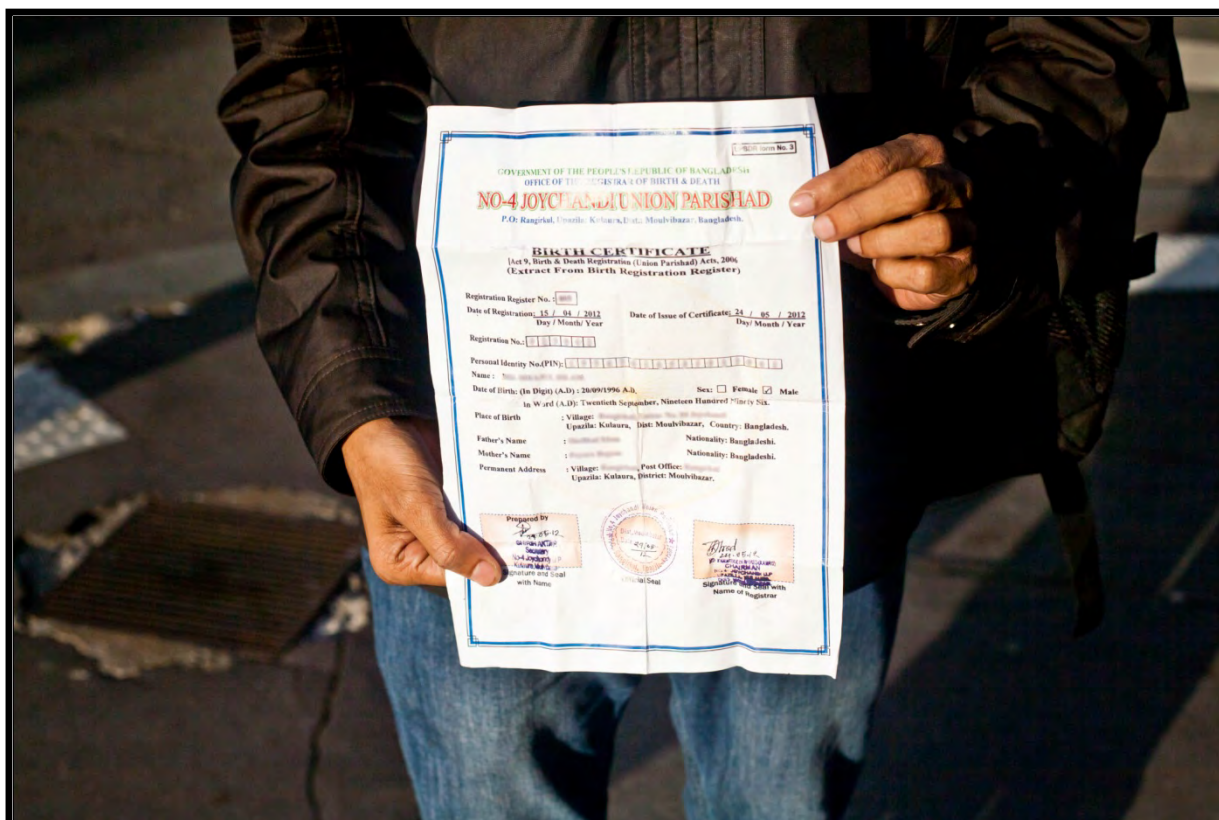
Crowded together in front of PAOMIE headquarters, a group of unaccompanied children await the overnight selection to spend the night at a shelter. A similar picture could be taken every evening

Photo- Julien Faure, 2012



PAOMIE overnight selection: this ticket entitles this youth to spend the night under a roof

Photo- Julien Faure, 2012



The validity of identity documents stating underage is challenged almost routinely
Photo- Julien Faure, 2012.



Many unaccompanied children live on the streets in Paris while waiting to be admitted into institutional care
Photo- Julien Faure, 2012

Other kinds of informal accommodation

Some other unaccompanied children manage to be accommodated through informal foster arrangements with compatriots, extended family or friends. Yet, these arrangements are provisional and highly unstable. Occasionally, the conditions in these accommodation arrangements are also very difficult, with a lack of heating, hot water or any other minimum comfort standards. After a while, the children concerned may go back to the streets.

A 17 year old Egyptian interviewed in the city of Turin described the harsh living conditions at his uncle's apartment:

"Question: In the house where you live with your uncle, there is no heating, hot water?"

Answer: There is no hot water

Q: And heating?

A: No, it does not work

Q: So you've been freezing this winter?

A: We slept with sweaters

Q: What about the bills?

A: There is no money, no food, no nothing..."

For those unaccompanied children staying with extended family, we have identified cases of relatives who are not always willing to host them.

This was the case of a 16 year old girl from Morocco who was informally hosted by siblings in Spain:

"I eat and sleep at my brother's home, but these days I am sleeping at my sister-in-law's place. My brothers are always quarrelling. I do not want to see them, so I left home early and spend the day in the street. I do not inform them on what I do. Everyone mind his own business, they only look after themselves. They do not ask where I am (...) I do not see my future. I do not know where I'll sleep next week (...) I don't have a place which I can call my home"

In Belgium, a young adult from Ivory Coast related a similar traumatic experience while hosted by her aunt:

“She did not consider me as her own children and I had limited access to everything. When I was using the computer I was always criticized because of the electricity fees while her children stayed more than 3 hours playing videogames. One day her children were leaving on holiday and I also wanted to go but my aunt made me pay the electricity invoices and I could not leave. I need my own family support, because otherwise I’ll look for that support elsewhere”

We have also identified similar situations where unaccompanied children who were expelled from protection facilities after age-assessment found themselves at facilities for adult migrants or homeless people.

In the case of a 17 year old Mali, after being rejected from protection after an age assessment test (he possessed a birth certificate and an ID card stating his underage), he was informally hosted at an African migrant workers shelter in the surroundings of Paris where he had to sleep in the kitchen:

“If I want to sleep there (at the shelter) I have to pay for the room. I said ‘I cannot, I do not have a job, How can I pay?’ So I sleep in the kitchen”

In conclusion, unaccompanied children living outside institutional protection in Europe face extensive difficulties to have access to decent and adequate accommodation. In most cases they live on the street in harsh and highly inappropriate conditions or in abandoned factories or houses very far from a minimum degree of comfort and security. Regardless of article 20 obliging States Parties to provide special assistance and care to children deprived of their family, the practices leading to a provisional or definitive exclusion of unaccompanied children from institutional protection and from appropriate housing may constitute a violation of article 27 of the Convention on the Rights of the Child. This provides the right of every child to an adequate standard of living and urges States to provide

material assistance and support programmes with regard to their nutrition, clothing and housing⁷⁵.

- Health

In accordance with article 24 of the United Nations Convention on the Rights of the Child⁷⁶, the current legislations of the four European Union Member States studied provide unaccompanied children's access to health care⁷⁷. However, administrative obstacles hamper effective access to this fundamental right particularly when unaccompanied children lack the identification documents necessary to obtain a health card or Social Security number (depending on the national context). This obstacle also affects those children who, even when in possession of identification documents confirming their childhood age, are declared to be adults after an assessment test⁷⁸. Even some unaccompanied children receiving care *a minima* have stated difficulties to get satisfactory medical attention. Despite the difficulties mentioned and obstacles to full access to medical care, it can be stated that in the four contexts studied, unaccompanied children will get health care in the case of an emergency⁷⁹.

If children living on the street appear to be at high-risk in terms of medical needs, the need for medical care does not appear to be an issue of particular concern in their discourses. Moreover some of them seem to look down upon this need and proudly evoke their physical strength and resistance.

⁷⁵ Article 27, section 3 of the United Convention on the Rights of the Child: "*States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing*".

⁷⁶ Article 24, section 1 of the United Convention on the Rights of the Child: "*States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services*".

⁷⁷ SENOVILLA HERNANDEZ (2010), *op.cit.*, page 203 (Belgium), page 253 (Spain), page 318 (France) and page 365 (Italy).

⁷⁸ See section III of this chapter for further details.

⁷⁹ One of our interviewees living at an informal foster arrangement talked with us about his experience at the hospital service. The administrative services at first refused him because he had no identification documents. He insisted and was finally received. He went a second time to the same Hospital and got an "ad hoc" card allowing him to come back.

This was the response of a Moroccan, 17 year old, asked how he and his peers did when they were sick while living on the streets of Turin:

“Nobody got sick. Everybody there was young. Everybody there was strong”

A young 17 year old Afghan interviewed in Paris, responded in a similar way to the same question:

“Why should I go to the hospital? I have nothing. (If I feel sick) I would go to see JM⁸⁰”

Other children however recounted the severe conditions they faced while living on the street and admit health and drug addiction problems linked to this precarious way of living.

An 18 year old Moroccan told of how he almost lost his toes due to frostbite after sleeping in a car for a week in the city of Turin during winter. He was 11 years old at that time:

“When I arrived I was living with my cousins and after a while I cleared off and started sleeping in a car. I was eleven and a half years old. After a week, as it was very cold I had a problem in my feet and I was taken to the Hospital”

Another 17 year old Moroccan encountered in Brussels recounted his drug-addiction problems while he was living on the street and feared to fall again as his accommodation arrangement was to finish:

“Being on the street is not nice; it’s not a good moment for me to go back to the street. I have spent two months at the hospital, I have stopped using drugs and now I am going back on the street and going to start again? Please no! And they will tell me: ‘Oh, why have you started again using drugs?’ Because you throw me to the street like a dog”

A common factor in the four contexts studied is the lack of specific care and prevention programmes to cope with mental health issues. A few previous existent studies reveal that many unaccompanied children suffer from

⁸⁰ He refers to the person responsible in a local association at one of the studied cities that supports unaccompanied children living on the street.

these problems, particularly post-traumatic stress, anxiety and depression. As Radjack underlines, unaccompanied children suffer from common pathologies as other adolescents as well as post-traumatic troubles. Many of them have faced different traumatic experiences and sorrow. At the same time, they must cope on their own with the period of adolescence, far from their family and their social and cultural environment. Many of them may suffer from complex post-traumatic stress involving severe emotional perturbations, self-perception alterations (guiltiness, shame, identity disturbance) and relationship troubles (reluctance, victimisation, aggressiveness)⁸¹.

All consulted practitioners insist that this is an urgent need that must be addressed. Further research on this question appears fundamental in order to identify the scope of this need of specific health care and launch specific programs. This, bearing in mind the cultural and ethnic background of the concerned unaccompanied children and their potential reluctance to recognize this kind of health problem⁸².

- Education

The child's right to education is provided by articles 28 and 29 of the Convention on the Rights of the Child urging States parties to promote global education systems that all children can access at different educational levels, particularly Primary education which should be free, accessible and compulsory for every child. The Committee on the Rights of the Child states that every unaccompanied child shall have full access to education, irrespective of his/her immigration status⁸³.

⁸¹ See RADJACK, R., T. BAUBET and al. (2012): "*Accueillir et soigner les mineurs isolés étrangers? Une approche transculturelle*" in *Adolescence* vol. 2012/2 (n° 80): pp. 421-432, specifically pp. 423-424. The notion of complex post-traumatic stress was introduced in HERMAN, J. (1992): "*Complex PTSD: A syndrome in survivors of prolonged and repeated trauma*", *Journal of Traumatic Stress* vol. 5, n° 3: pp. 377-391. See also DERLUYN, I. (2005): "*Emotional and behavioural problems in unaccompanied refugee minors*", Academia Press, University of Gent.

⁸² Generally, issues relating to mental health have not been directly evoked during our interviews with unaccompanied children or young adults. Nevertheless, many interviewees have expressed their anger, their sadness and even their feeling of regret concerning their migration experience.

⁸³ COMMITTEE ON THE RIGHTS OF THE CHILD (2005): *General Comment n° 6 on the treatment of unaccompanied and separated children outside their country of origin*, *op.cit.*, paragraph 41.

Access to regular schooling or vocational training courses is of capital importance for unaccompanied children. As well as the benefits for every child's development, all four European Union Member States constituting the scope of our survey set up conditions linked to educational progress (amongst others) in order to grant immigration status to unaccompanied children. Lemaire underlines that this administrative condition is a motivator for unaccompanied children to achieve a better education⁸⁴.

However, a regular attendance at school or other educational programs becomes almost impossible for unaccompanied children lacking protection who are living on the street. Even those children receiving care *a minima* (placed in a B&B or hotel) experience difficulties to regularly attend mainstream school and cite different reasons, particularly lack of money for public transport, to buy school material, clothes, etc.

A 16 year old Afghan, recently arrived in Paris, stated his wish to go to school but also his awareness of the associated obstacles:

"I want to continue my school here but if we have no money, we can't stay without food, clothes, books"

A number of the consulted children expressed directly or indirectly their strong motivation and willingness to get schooling.

A young Malian, who had never attended school in his country of origin, proudly explained his progress and his gratitude for this opportunity:

"I had never gone to school before. I did not know how to write my name but now it's much better. I have very good teachers. We finish our lessons by 5,30 PM and I stay one hour or more every day studying with my teachers"

⁸⁴ See LEMAIRE, E. (2012): "Portraits de mineurs isolés étrangers en territoire français: apprendre en situation de vulnérabilité" in *La Revue internationale de l'éducation familiale* vol. 2012/1 (n°31): pp. 31-53, in particular page 38. Our interviewees have not expressed the use of schooling as a mean to obtain a residence status. Thus, as we will underline in section 3 of this chapter, the motivation to be granted with residence status may constitute a pulling factor for children living on the street to integrate institutional protection.

A 16 year old Nepalese met also in Paris insisted on the importance of getting an education:

"I want to study; I want to make my future. I think I am in a hurry to learn this language (...) I think I can have a better future. This is the reason I really want to learn this language and I want to join school as soon as possible"

Besides the difficulties linked to the precarious and unstable living situations of unaccompanied children lacking protection and their problematic compatibility with training or education, other objective difficulties or obstacles have been reported in the different national contexts studied. Amongst others, we can highlight the difficulties to adapt and integrate in mainstream schools (particularly for those children who do not have a command of the language of the country of destination) and the lack of classes adapted to the unaccompanied children's level of learning⁸⁵. For those willing to attend professional training programs, the lack of a residence document and/or an authorisation to work can block the access to these programs where an internship is often compulsory to obtain the diploma.

The same young Malian quoted above, proud of his schooling progress, expressed later his concern about being able to pursue studies due to the uncertainty of being granted with a residence status:

"I cannot do training without 'papers' (residence permit). It's difficult. I followed some internship on dressmaking. The mentors did like me because I work hard. I cannot do professional training without 'papers'. I do not know what will happen"

⁸⁵ Lemaire considers that integrating unaccompanied children in schools gives rise to accessibility problems as most of these children are close to becoming of age, do not have a sufficient command of the language and have brief or inexistent previous school background. See *Ibidem.*, page 34.

Section II- Unaccompanied children's experiences within institutional care

As mentioned already, a vast majority of the unaccompanied children and young adults met during our survey had had a previous or present experience within Child Welfare services. The modalities of reception of this population are different from one context to another and often depend on the national or even local practices of reception and care of children in a situation of need⁸⁶. In the framework of our research we can underline two main modalities of reception where the unaccompanied children met had been received during shorter or longer periods.

- A significant number of unaccompanied children were accommodated at hotels or B&Bs. This constitutes a temporary reception solution often used by relevant authorities to find a placement at a reception centre. Yet, in some of the studied contexts (Brussels and Paris in particular) this precarious solution was used for periods lasting several months. Its inadequacy is mainly linked to the systematic lack of educational follow-up and social support. In most cases, the concerned unaccompanied children only received a daily or weekly allowance for food and clothes. The location of these establishments is often a problem, both in terms of the neighbourhood's environment, which sometimes is not the most adequate bearing in mind the previous illegal activities that some of the children had undertaken while unprotected, but also in terms of the geographical location. This can include being far from educational facilities and involving long and expensive public transport journeys which are not always financially covered. Some unaccompanied children also complained about the treatment they received from the hotel managers and other uncomfortable conditions, such as exterior and interior noise, other unpleasant adult guests, etc.⁸⁷

⁸⁶ We consider there is a real need for further research on the adequacy and adaptation of these different modalities of reception to the profiles and actual needs of unaccompanied children. For a brief analysis see SENOVILLA HERNANDEZ, D. and KANICS, J. (2010): "*Protected or merely tolerated? Models of reception and regularisation of unaccompanied and separated children in Europe*" in D. SENOVILLA HERNANDEZ, K. TOUZENIS and J. KANICS Migrating alone: unaccompanied and separated children's migration to Europe, Paris, UNESCO publishing: pp. 3-20.

⁸⁷ Przybil has conducted research on the conditions of a group of unaccompanied children received at a day reception centre and accommodated by relevant authorities at different hotels in the city of Paris. She notably evokes "*the striking contrast between the continuous efforts of the day reception centre staff to provide educational and social support to this group of children and the life conditions at these hotels*" and consider that "*only a minority of the 15 visited hotels provided adequate conditions to the children's well-being and security*". See PRZYBYL, S. (2012): "*La pratique de l'espace*

- The second main model of reception was the placement of the unaccompanied child at a reception centre. There is a large diversity of centres from one national context to another and even within a same national context. A classic pattern of differentiation is that of placing unaccompanied children in mainstream facilities together with national children in need, or at specialized facilities for this population. Even if both types of facilities present advantages and disadvantages, the choice of the centre appears in most cases to be arbitrary and mainly based on the available places rather than in a real assessment of the concerned children's needs⁸⁸. Regardless of the type of reception centre, the quality of the reception varies and often depends on the financial means and human resources available or even on the existence of professional staff more or less motivated and trained to respond to the characteristics and needs of this population. The current financial cuts on social services due to the global economic breakdown may also play a role on the quality of the reception facilities⁸⁹.

Other less well-known models of reception are the institutional placement in foster families and in shared apartments with other received children. The placement of unaccompanied children in foster families is rarely used in the four countries of our study. The few encountered cases revealed different degrees of quality depending both on the characteristics of the fostering family and

du quotidien des mineurs isolés étrangers accueillis à Paris. Étude d'une structure d'accueil de jour de la Croix-Rouge française", Mémoire Master 2 Recherche en Migrations Internationales, Université de Poitiers, Département de Géographie, 164 pages: pp. 74 & 75.

⁸⁸ An interesting piece of research questioned the social services' staff working with children in need in the UK context about the convenience and/or inconvenience of placing unaccompanied asylum seeking children in mainstreaming or specialized facilities. The results are to be found at FREE, E. (2005): "*Local authority support to unaccompanied asylum-seeking young people: Changes since the Hillingdon judgement (2003)*", Save the Children England Programme: pp. 29 and following.

⁸⁹ A joint report from UNICEF and the United Nations Commissioner for Human Rights underlines how low the standard of quality of some reception facilities for unaccompanied children in Europe is and suggests that this may be a reason for children disappearing from care. See (2012): Judicial implementation of article 3 of the Convention on the Rights of the Child in Europe. The case of migrant children including unaccompanied children, UNICEF- United Nations Children Fund & OHCHR- Office of the United Nations High Commissioner for Human Rights, page 70: "*In relation to reception facilities, concerns have been expressed that the minimum requirements are not always met and that sometimes the distinction between reception and detention facilities is not easy to draw, which may explain the large number of children who 'disappear' from reception centres. Reception centres often have limited capacity and unexpected arrivals may result in ad hoc arrangements resulting in children being housed in facilities that fall below the required standards. Also, sometimes unaccompanied or separated children are placed in hotels, where they become very isolated*".

the associated institutional follow-up and support⁹⁰. Placement in shared flats or apartments could be a possible option for children with a high degree of independence and maturity⁹¹. However, the profile and assessment of the needs of the children concerned does not seem to be taken into account by relevant authorities when making a decision on their placement.

A problem often mentioned by the consulted unaccompanied children is the lack of adaptation to and the non-understanding of the rules of the reception facilities, particularly at accommodation centres. Breaking these rules can involve the unaccompanied child's exclusion, sometimes after a first fault. A number of informants also expressed their feeling that the rules are implemented arbitrarily.

An 18 year old young Romanian adult met in Paris expressed his non-conformity with these rules:

"I don't want to go back because in the centre there are too many rules, for the time to eat, to speak with someone else. There is always somebody telling you where and when to go. You know, I did not like that..."

A 17 year old Moroccan met in Brussels had a similar perception:

"Those who do not want to stay at a centre, they look for trouble, they do not respect the rules. I want to be placed in a centre but I want to be free. I want to go out at night, at weekends. Rules are difficult at the centres: you do not go out, you come back at 6 pm., you must sleep during the night, you don't have enough pocket-money, what clothes have you bought? (...) This is why people leave the centres and become thieves: to buy new clothes and have money..."

On occasions, reception centres' rules can be extremely severe even forbidding children to go outside. Children perceive this restriction as a deprivation of liberty pushing many to abandon the protection facilities.

⁹⁰ For a detailed analysis of the foster placements of unaccompanied children in the UK context (where this practice is often used) see HEK, R. (2007): *"Using foster placements for the care and resettlement of unaccompanied children"* in R. KOHLI and F. MITCHELL *Working with unaccompanied asylum seeking children: issues for policy and practice*, Palgrave Macmillan: pp. 109-124.

⁹¹ Stanley considers that *"unaccompanied children who are placed in a hostel, bed and breakfast or private rented accommodation receive a considerably lower standard of care than those who are placed in foster care or residential home accommodation"*. These findings refer to the UK context but could also be applied to the four countries of the PUCAFREU project. See STANLEY, K. (2001): *"Cold comfort: young separated refugees in England"*, Save the Children UK: p. 40.

A 19 year old Afghan met in Paris summarised this perception:

"When I arrived here there were rules I didn't like. I asked to change but they refused. Then I left it (...) I thought that when you are in a foyer (reception centre) you are free. But no, it's not like that"

A 21 year old Algerian young woman related to us her experience at a reception centre in Turin where she was placed when she was 14:

"I was the only girl together with a Romanian girl and then they were all boys. I ran away. I invented the excuse that I was sick, because at that time I was pregnant. And they took me to the hospital and I ran away from there. It's not that I did not want to stay, but after 10 days there you could not go out, just look out across the bars (...) Only those who have stayed there for some months could go out with the educators. It was like a prison"

A Moroccan 13 year old boy who had been placed at the same facility expressed a similar insight:

"They did not allow me to leave. The only time I went out it was with an educator, and the other guys escaped. I asked if there was a day to play football. They said okay the first time and then decided not anymore. I spent two weeks there ... One day I wanted to jump out of the window, which was very high, but I was afraid. That was a prison, not a community. There are windows with bars..."

In Spain we have also found similar complaints. A 19 year old young adult from the Ivory Coast related his experience at a reception centre in the city of Madrid where he was transferred after a period at the Canary Islands:

"The problem is I didn't like it there (at the centre) because they did not allow us to go outside. You can only go out with an educator"

This youth was 16 years old at that time but declared to the reception centre staff to be eighteen years old because he wanted further freedom. He was immediately declared as an adult (without any verification) and placed at a specialized reception centre for young adults.

Another identified problem is linked to the conflicts and difficult relationships between the received unaccompanied children and the staff of the reception facilities. A number of the interviewed children complained about the aggressiveness of certain social workers or educators towards them and of their lack of motivation

and sensitivity in doing their work. Administrative negligence when dealing with the unaccompanied children's asylum or immigration documentation was also reported.

A 17 year old Moroccan met in Turin claimed that more trained and sensitive staff would be beneficial at the reception centres:

"We need educators that behave themselves. They should not be rude with children and should work to try to build a better future for them..."

This same informant was asked to leave a reception facility after an argument with the Manager:

"I did talk with the director of the centre. He did something I did not like and I told him. He told me 'Go away. You don't like this reception centre, go away'. And I did"

A young adult former victim of trafficking who was expelled from a reception centre claimed a more humane and calm treatment from staff would avoid this kind of conflict:

"I think that they (received children) must feel at home. That understanding is very important. You must have the impression that they (the staff) are willing to support you... That you feel comfortable. Like you know that you could talk to them. It is the two basic things you must have that are really important, you know (...) Expression is very important. The way people talk to you, if they talk to you in a very quiet way, explain to you what things are and how they are, you will become yourself calm too"

Many consulted children and young adults also complained about the existence of a systematic suspicion about their declarations from the staff supposed to care them. This suspicion becomes systematic with respect to the declared age but also concerns other information concerning the country and context of origin, the migration route, the status as 'unaccompanied', the family links, the fact of being or not in transit, etc.⁹² As Bricaud underlines, this kind of suspicion is very common for all people benefitting on State Welfare provisions as 'fake unemployed', 'fake asylum seekers', 'fake disabled' and, of course, 'fake minors'. According to the same author, certain social workers and other outreach workers in contact with unaccompanied children may be

⁹² BRICAUD, J. (2012), Accueillir les jeunes migrants: Les mineurs isolés étrangers à l'épreuve du soupçon, Lyon, Chronique Sociale, page 51.

over-zealous in their suspicion to demonstrate their effectiveness in front of their managers⁹³.

But if some children may use lies as a strategy to achieve their migration objectives, to protect themselves or simply to get better opportunities and cope with everyday life (some minors we met lied about their age to get a place at reception facilities for adults or on language courses), the perception of a lack of trust from their institutional interlocutors undermines their own confidence in the system.

This distrust of unaccompanied children appeared clearly in the French context. A 16 year old Guinean related how he was suspected of using a false identity to secure a place at the protection facilities in Paris:

"I went there (Child welfare headquarters) the 5th of October. And it's there that everything went badly. The women at the reception called me and told me to stay in the waiting room. After 45 minutes she came back, stared at me and told me 'You have already been here'. I said 'What? Madam, it's my first time here, I didn't even know the place'. But she said no, she opened a folder and told me that they have already received somebody called Mamadou Diallo (my name is Mamadou Sidibe) that looked exactly like me. I asked 'When did you receive this person?' and she said 'In July'. And I said 'In July I was in Guinea'. She said 'It's not true. It's you'..."

This statement does not seem to be an isolated and unfortunate misunderstanding. The French Ombudsman has recently noted that the Institution has been informed of a large number of cases of unaccompanied children who were not believed by their interlocutors about their identity, their age or their nationality⁹⁴.

Similar situations have been reported in the other contexts of the survey. A former victim of trafficking for sexual purposes in Spain related how she confronted her exploiter during his trial and how at certain stages she felt she was suspected of lying:

"When the trial was held, I was not really protected because I was there at only one metre of distance from the guy (she refers to the exploiter)

⁹³ *Ibidem.*, pp. 11 & 64.

⁹⁴ 'Défenseur des Droits' (Defender of Rights) Décision n° MDE/ 2012-179: « For several months, the Defender of Rights has received many complaints regarding situations where foreign minors wander unaccompanied in France. Finally, they are not properly taken into care and they therefore do not benefit from the level of protection provided for in the UN Convention on the Rights of the Child. He notes that in most of these situations, these young people have their identity, their age, their life story and the situations they have faced, questioned or even denied by their interlocutors ».

(...) I did not feel safe. Moreover, they treated me as a liar. There was a moment it was my word against the guy's word. The lawyer from the Child Welfare services didn't do her job as it should have been"

As well as conflicts with staff at protection facilities, a significant number of children have alleged the existence of difficult relationships, tension and even clashes with children and youth from other national origins. On occasions, these conflicts are a consequence of inadequate reception conditions or insufficient places at first reception shelters and may generate a feeling of discrimination.

A 17 year old Nepalese expressed to us how he felt he was discriminated with respect to children from other national origins when he participated at the selection to spend the night at an overnight shelter in Paris⁹⁵:

"It was last week when I went there for the second time. She came to me and I said 'Madame, s'il vous plait'. She was like: 'where are you from'. I said 'I'm from Nepal'. 'And what's your religion?'; I said 'Buddhist'. And she just passed me by! She didn't tell me anything; she just went away! What's wrong with this woman? She was asking me what are my nationality and my religion. And most of the Afghan and Pakistani people are getting the ticket. Why not me? They looked older than me. Do I look older? No, I'm not. So if you are from Iran, if you are from Afghanistan, it doesn't matter what is your age but you'll get a ticket for sure. This is how it works"

These conflicts between national communities may also occur inside reception facilities. Again, an Ivorian 18 year old related how he felt discriminated against other national community at a reception centre:

"One day the Director of the centre called us for a meeting in order to listen to our claims regarding the food provided (it was Ramadan). So we sat down and then they (the staff) only asked the Moroccans. And not to us. So I talked to my educator later and told him 'Listen, why do you only ask the Moroccans? You know we also do Ramadan. It is because we are coloured?' And he said 'I don't know. They are more than you and they can do what they like'"

In contrast to these situations of conflict, some unaccompanied children referred to the staff of the reception facilities as a real support and showed how qualitative social and educational work can play a positive role in their protection and inclusion process.

⁹⁵ See Section I of this chapter for a more detailed description of this 'selection'.

A 19 year old Afghan expressed his gratitude towards his educator:

“She gave me everyday support and advice. Every time I think about this, how she helped me without knowing who I am. But she helped me like this”

Similarly, some reception centres employing specialised and multidisciplinary staff offer a substantial follow-up and adapt their provisions to every child’s personal circumstances and needs of protection. Children feel safe in this kind of context and choose from a number of educational and recreational activities to engage in. They are therefore prepared for future autonomy.

This is the case of a specialized centre for victims of trafficking in Belgium. A former victim talked to us about his positive experience at this centre⁹⁶:

“I was kind of lost when I first arrived at the centre, I had no idea of how my future was going to be like or what would happen (...) There were a lot of educative activities there, I started literacy courses with an educator and I was studying French. I was surprised how I have learned French quickly. I had lessons from 9 to 12. After 6 months I could communicate. I also started to use the computers there (...) I did not know anybody when I arrived there, what you first see is a culture you don’t know and only strange faces, but in fact the people were all nice, including the other young. With time I have made friends, I did not even remember what I have had before. I will never forget but they managed to distract me by doing parties, activities, I was a DJ there, with a modern computer, I was running the parties”

Even though every case is unique, this statement shows clearly how a number of unaccompanied children have essential and simple needs which are not far from those of every other child of their age: to feel safe, to get education, to socialize with other children and youth, to entertain, etc.

A Mauritanian 17 year old expressed his wish to have a *normal life* in the future:

“You never know. Everything is possible, good or bad. I wish good, but we will see. To have a secondary school certificate, a job, documents, everything normal. To have a normal life”

⁹⁶ Considering his past as a victim of trafficking, we have decided in this case not to provide the child’s nationality nor the name of the reception centre in order to ensure full confidentiality.

Figure 5- Unaccompanied children's needs in relation with their best interests

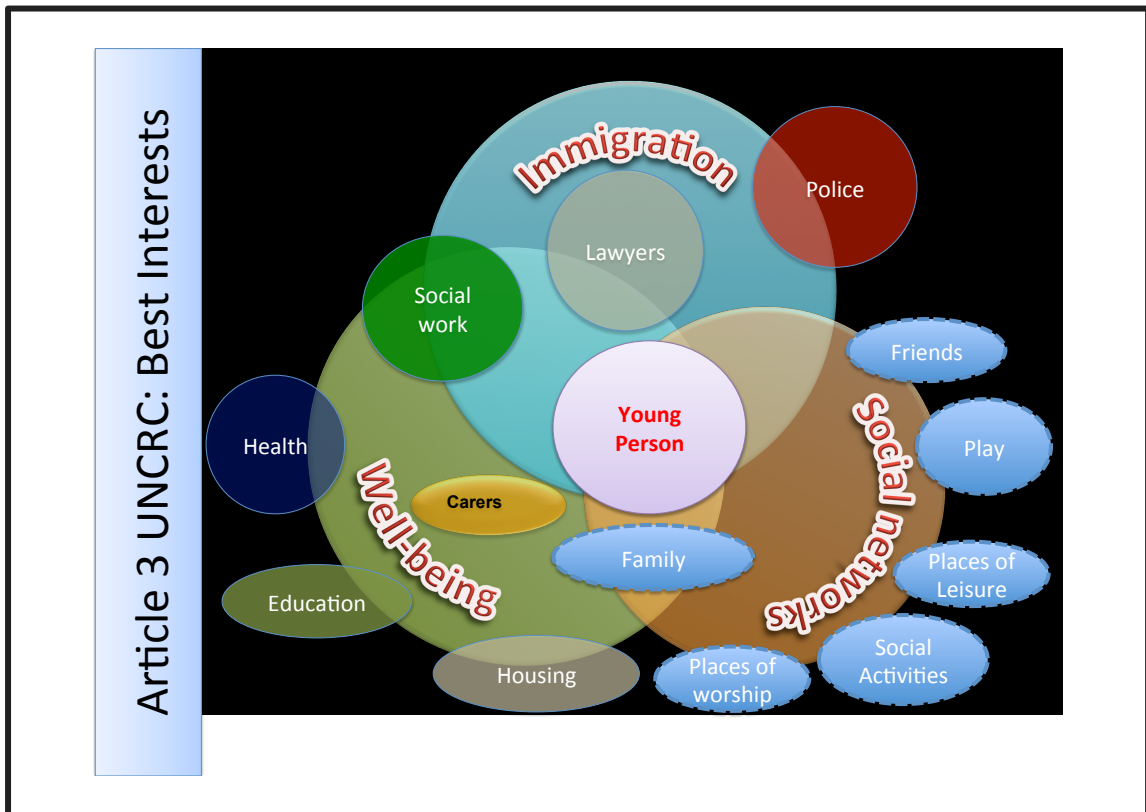


Figure created by Ravi Kohli, University of Bedfordshire.

As reflected by Kohli in figure 5 above, the best interests of the child includes elements linked to the child's well being (education, health, adequate housing) but also to the child's social networks (making friends, engaging in social activities, enjoying their own culture and/or practicing their religion, being in contact with their family, etc.). In the case of unaccompanied children, well-being and access to social networks should be ensured in all cases by care providers as part of the child's educational project⁹⁷. The results of our survey show a fairly different reality, as protection provisions do not necessarily take into account the real needs of unaccompanied children, and barely consider their best interests.

⁹⁷ Besides well-being and social networks, unaccompanied children are particularly concerned by their status as immigrants. We will further examine this aspect in section III of this chapter.

Section III- Reasons explaining unaccompanied children's lack of protection

Our fieldwork results show that the situations of lack of protection concerning unaccompanied children are due to a vast multiplicity of factors and reasons. Some are intrinsically linked to the child's personal situation as an individual both in the country of origin (previous child's situation and living conditions, family's situation, motivations to migrate, migration route and means of transportation, people encountered, etc.) and in the country of destination (existence of contacts with national community, peers and/or extended family, influence of these persons in the child's fate in the context of destination, opportunities encountered). Some others factors appear to be linked to legal issues and associated practices: these concern, on the one hand, the status of unaccompanied children as immigrants or asylum seekers and, on the other hand, the adequacy and quality of the State protection they are entitled to as children deprived of their family environment.

We have decided to divide these reasons into three main groups:

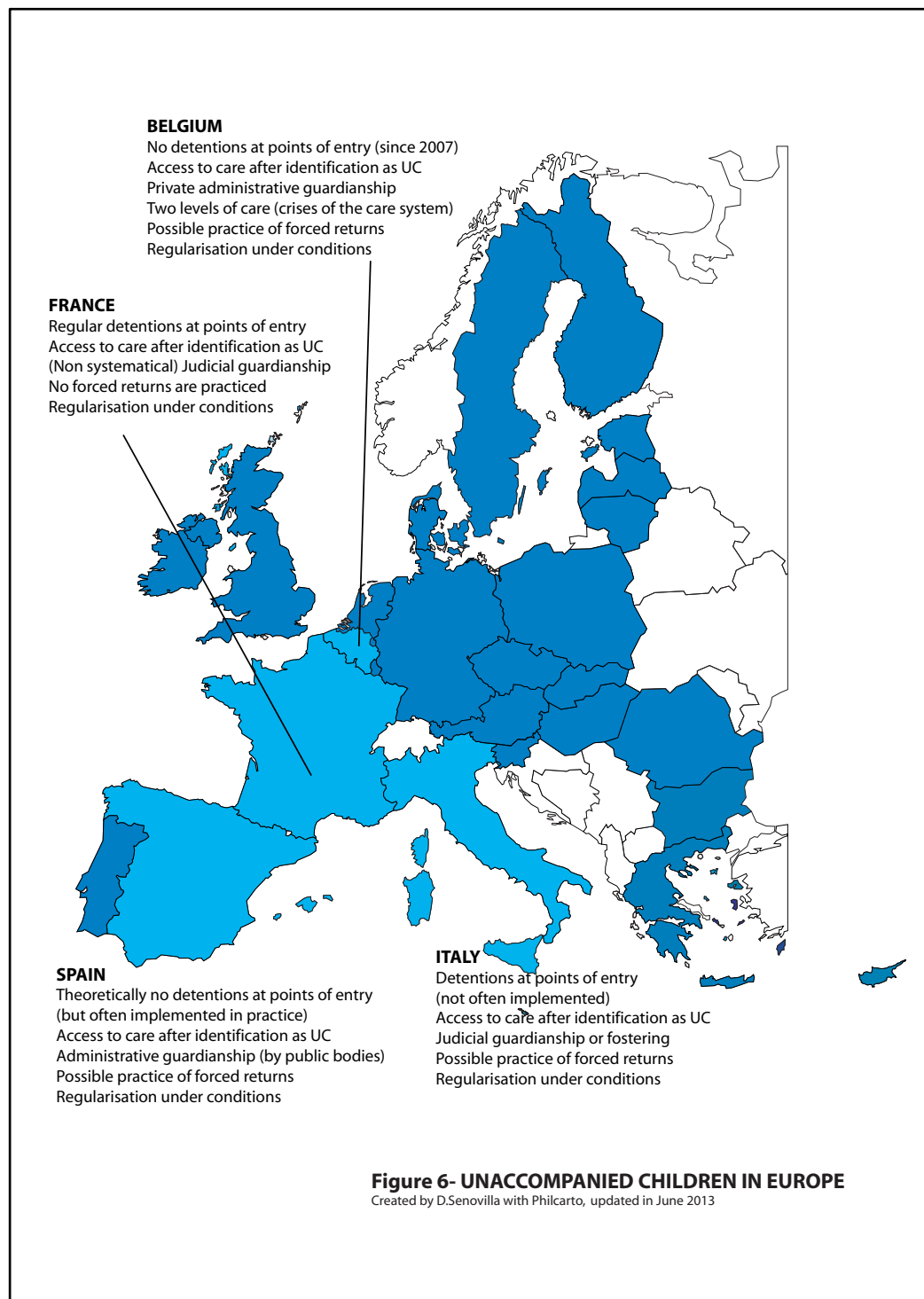
- (1) Reasons linked to the unaccompanied children's administrative status;
- (2) Reasons linked to the influence of the unaccompanied children's environment both in the country of origin and destination;
- (3) Reasons linked to practices of institutional mistreatment or exclusion.

(1) Reasons linked to the unaccompanied children's administrative status

Three of the four studied countries (Belgium, Italy and Spain) have created a specific legislation to deal with the presence of unaccompanied children in their territories. In Italy and Spain, special provisions have been included in their Immigration Acts⁹⁸. In Belgium, several specific legal

⁹⁸ As for Italy, *Testo Unico sull'immigrazione* 286/98 and *Regolamento di attuazione* D.P.R. 394/99. As for Spain, *Ley Orgánica 4/2000 sobre Derechos y Libertades de los extranjeros en España y su integración social* and *Real Decreto* 557/2011.

instruments regulate the situation of unaccompanied children⁹⁹.



⁹⁹ Amongst others, see the *Loi-programme* of 24th of December of 2002 *créant une tutelle pour les MENA* and *Loi* of 12 of September of 2011 *en vue de l'octroi d'une autorisation de séjour temporaire au mineur étranger*.

In the French case, hardly any legal provisions refer specifically to unaccompanied children (apart from the regulation of their deprivation of liberty at international transit zones of airports or harbours constituting external borders of the country)¹⁰⁰. Unaccompanied children neither have a specific status as immigrants nor as children in need and Common law provisions apply to their situation.

In figure 6 above, it can be seen that the four countries provide different possibilities of regularisation for unaccompanied children. In the case of Belgium, Italy and Spain, discretionary leave to remain may be granted while unaccompanied children are still underage. Once they reach adulthood, further conditions are requested to consolidate a durable immigration status. In the case of France, the legislation considers the residence of all foreign children as regular (whether unaccompanied or not). Once foreign children become of age, the legislation provides certain possibilities to grant them regular administrative status after the fulfilment of a number of conditions¹⁰¹.

The requested conditions that unaccompanied children must accomplish in order to be granted with a durable immigration status are fairly similar in all contexts studied. Immigration authorities may require whether a minimum period of being under the care of protection services (nine months in Spain) or being under State protection before a certain age (16 years old in France and 15 in Italy and Belgium). Further conditions involving discretionary assessment from relevant authorities must then be met. These conditions may refer to imprecise notions such as ‘the level of integration of the child in the host society’, ‘the degree of academic progress’, ‘the existence of links with the country of origin’, etc. In Spain, Italy and Belgium (not in France), voluntary or forced return to the country of origin is the preferred durable solution (whether for family reunification purposes or not)¹⁰². However, very few returns occur in practice¹⁰³.

¹⁰⁰ Article L221-5 of the *Code d'entrée et de séjour des étrangers et du droit d'asile*- CESEDA.

¹⁰¹ These conditions are to be found in article L313-11 paragraph 2 bis of the CESEDA.

¹⁰² A detailed outlook of the different durable solutions implemented in this 4 European Union States is to be found in SENOVILLA HERNANDEZ (2010), *op. cit.*, pp. 204 and following (Belgium); pp. 254 and following (Spain); pp. 319 and following (France); pp. 365 and following (Italy). The conditions that unaccompanied children must fulfil to get an immigration status have been also analysed in TAWFIK, L. (2011): "National laws and practices regarding unaccompanied children and their adequacy with regard to international law" in P. LAGRANGE and D. SENOVILLA HERNANDEZ

As a consequence of these restrictive regulations (and bearing in mind that asylum and immigration authorities fail to apply in many cases the few existing possibilities of regularisation), the majority of unaccompanied children are predestined to a situation of irregularity once they become adults in all countries studied.

This situation is a common pattern all over Europe and has been underlined in several reports or documents from international agencies.

A report of the Committee on Migration, Refugees and Population of the Council of Europe considers that *“unaccompanied minors once attaining adulthood can no longer benefit from procedural safeguards; they have no entitlement to family reunification; they are exposed to an increased risk of detention; and the safeguards regarding return cease to exist. In short, unless their residence permits are extended on individual compassionate or humanitarian grounds, the former unaccompanied minors automatically join the ranks of irregular migrants who are expected to return voluntarily to their countries of origin or risk forced return as an adult under the Return Directive”*¹⁰⁴.

Using similar arguments, UNICEF and the United Nations High Commissioner for Human Rights say that *“in most cases reaching age 18 either triggers removal action without many or all of the safety net provisions associated with children, or the young person may be left in a state of limbo, remaining in the host country either illegally or in many cases without a clear status or legal rights. In particular, young people whose legal status was not decided by the time they turned 18 years old and those whose application for asylum was refused face a great risk of drifting into an irregular*

The legal status of unaccompanied children within International, European and National frameworks: protective standards vs. restrictive implementation, PUCAFREU project-www.pucafreu.org, pp. 39-48.

¹⁰³ In Spain, for instance, for the period 2004-2008, forced returns of unaccompanied children constituted less than 1% of the number of received children (see the Annual Reports of the *Fiscalía General del Estado* for further details). These very low numbers are in clear contradiction of the legislation in force that sets repatriation to the country of origin as the preferred solution to deal with unaccompanied children.

¹⁰⁴ REPS, M. (2011): *“Unaccompanied children in Europe, issues of arrival, stay and return”*, Doc. 12539 of 21 March 2011, Council of Europe, Committee on Migration, Refugees and Population, paragraph 84.

*status*¹⁰⁵.

The lack of perspectives and the feeling of instability associated with this restrictive implementation of the legislation in force is a major discouragement for unaccompanied children who are conscious that they will probably face deportation once they become of age. Both reports quoted in the previous paragraph agree that this situation is a direct cause explaining why unaccompanied children vanish from State protection, putting them *“at the mercy of trafficking networks and criminal gangs, leading to the high likelihood of their exploitation and abuse”*¹⁰⁶.

Our field results in all studied contexts confirm the key importance of obtaining an administrative durable status for unaccompanied children and young adults.

In the French context, due to the legislation provision considering as regular the residence of any foreign person under 18 years old, the importance of getting a leave to remain was associated with the stage of transition to adulthood. Many interviewed children also mentioned the possibility of prolonging their protection after 18 years old as the legislation offers this possibility to any children in need under judicial or administrative validation (*“jeune-majeur”* contracts).

The following statement from a 19 year old Afghan met in Paris shows clearly the distress and anguish generated by the lack of perspectives for former unaccompanied children once they become of age:

“I was more than 17 years old when I arrived in France. I had only some months left before turning 18. And I didn’t know anything. I did not know at all that after 18 no one would help me, and I would not have anything anymore, and I would be alone, completely alone”

A young Egyptian insisted on the importance of getting an immigration status allowing him to remain in France:

¹⁰⁵ UNICEF- United Nations Children Fund & OHCHR- Office of the United Nations High Commissioner for Human Rights (2012), *op.cit.*, page 46.

¹⁰⁶ REPS, M. (2011), *op.cit.*, paragraph 86 and *ibidem*.

"The most difficult thing is the 'papers'. It's the first priority. It's very important for me, because next year if I get my diploma and I do not have 'papers', I am not allowed to work"

In Madrid, a young adult from Rwanda used his own words to highlight the existing contradictions that unaccompanied children must face when reaching adulthood:

"The Children protection services have been as our father, but we have nothing, and when we have to leave they do not give us some advice, they do not give us a 'pass'. The 'pass' is a residence status (...) But they are not doing this. When you reach 18, get out. Some guys have to make their own way and the situation is difficult. Some others are not used to doing their laundry, do some cooking, and when they become of age, they have to make their own way on the streets. And this is not good"

In Belgium, a young adult from Nigeria wondered how the delay in receiving a response from immigration authorities concerning his regularisation claim could be so long:

"How it takes so long? Because it is now more than one year I have made my request and still nothing. It is despairing. I have missed two school years, I want to get my secondary school, follow some professional training and get a job. But I can do nothing. And in my case the response will be positive because I am going to have a child with a Belgian woman, but it lasts. And it is a waste of time"

Another Moroccan 18 year old described how he abandoned a reception centre after understanding that it would be really difficult for him to get a leave to remain in Belgium:

"(At the centre) I talked all the time with three other Moroccans. There was a 16 year old girl. One day she went to see her guardian and he sent her to the Immigration office to ask for a leave to remain. The officer told her that being 16 years old there was only 50% of chances of getting a positive response. She was mad about it. As I was 17, I understood. After a few days we have all gone to France"

In contrast, we have also found cases of unaccompanied children for whom the possibility of getting immigration status constituted a pulling factor to remain or become integrated within protection services.

This is the case of a Senegalese young adult, 18 years old, who after a long period without protection finally decided to integrate in the protection facilities and ended up obtaining a residence permit. His statement shows the capital importance for this population of being granted legal immigration status:

"The most beautiful thing that it happened to me is when I went to the police station the first time, because I did not know that I was eligible for a residence permit (...) So the day I had to go to the Police station to take my document I was just happy. Even when I had it I did nothing but just looking at it every two minutes. It was great, I just could not believe it"

Similarly, an Afghan young adult encountered in Paris told us how he stayed at a reception centre because it was the only way of obtaining a leave to remain:

"There was nothing special that I can say. Just go for the paper. You can have a paper there. Because you have a lawyer who helps you for the papers. It's just for this. But this centre is not good for the life"

(2) Reasons linked to the unaccompanied children's entourage

- Families

The role of the family in child migration remains unexplored. In his research on the Moroccan context, Vacchiano underlines the role and influence of the families in the organization of the migration of minors, especially unaccompanied minors: *"The weight of family dynamics is inevitably of great importance. With some significant exceptions, family is- and not only for minors- the most relevant location in which a great many migratory projects are in gestation, if not directly formulated (...) Furthermore, in some of the cases examined, we could identify in the family a general representation of the minor as a potential productive subject"*¹⁰⁷.

¹⁰⁷ VACCHIANO, F. (2010): "Bash n'ataq l-walidin ('to save my parents'): personal and social challenges of Moroccan unaccompanied children in Italy" in D. SENOVILLA HERNANDEZ and al. Migrating alone: unaccompanied and separated children's migration to Europe, Paris, UNESCO Publishing: page 115.

The same author relates the history of Jalil, a young Moroccan who arrived in Italy when he was 15. At first, Jalil stayed with compatriots living on the street and sold things to produce income until the Police took him to a reception centre. He started attending school and started a new life. But his father and family were putting pressure on him to become economically productive. His father accused him of wasting his time and leading a life of pleasure while the family in Morocco was under severe deprivation. Despite the pressure, Jalil's finally managed to stay under State protection, get a school diploma and found a job¹⁰⁸.

Likewise, we have found in our survey a number of cases comparable to Jalil's history, particularly (but not only) in the context of Turin. The pressure to produce income caused by a feeling of responsibility and/or guilt towards the family in the country of origin appeared in these cases as a reason explaining the situation of lack of protection.

An Afghan 19 year old met in Paris expressed accurately this feeling of responsibility to produce income that drives many unaccompanied children out of protection paths:

"I must work, I must make my life. So if I go to school, getting a diploma takes 2 years, 3 years. I can't do this because I passed 5 years in the way and all this time I have done nothing. I have nothing in my heart. Because I said before that I am responsible for my family. I must work, I must stop my school. I can't do it, I must go to find a job. I have a job now but that is not so good, I work in a restaurant and construction also"

When the child's family in the country of origin has financially contributed to the child's migration, the child assumes an additional burden to rapidly produce income and send money back home¹⁰⁹. This is likely to happen when the unaccompanied child's journey was previously organized and the arrangement implied the involvement of the child upon arrival in a working activity, often illegal, in order to reimburse the cost of the journey. Adult members of the national/ethnic community of the unaccompanied children in

¹⁰⁸ *Ibidem.*, page 109.

¹⁰⁹ Bricaud considers that for many unaccompanied children, relation with their family is conditioned by the previously incurred debt. They are tied by this obligation towards their family. Even when there is no precise command, they feel in an obligation to be successful. Their hope to contribute to family well-being drives them to a form of submission to any institution or individual who may help them to integrate into the labour market. See BRICAUD (2012), *op.cit.*, pp. 190-191.

the country of destination may play a key role in this process of exclusion from the protection system.

A consulted practitioner in the city of Turin described broadly how an informally-organized migration flow from rural areas of Morocco works: behind the organisation of this migration there exists a kind of informal but very detailed arrangement between the children's families and adult migrants coming from these regions and living with a regular status in Italy. This arrangement involves a financial debt. The children travel with fake travel documents together with the adult. Once in Europe these children live with the smuggler and work mainly selling small items (tissues, cigarettes) or drug dealing on the street. Their income goes both to reimburse the incurred debt with the smuggler and to support the family in the country of origin. The reimbursement of the debt often becomes indefinite (neither the families nor the child keep a record of the amounts)¹¹⁰.

The following statement of a young woman met in one of the countries of our survey shows how these arrangements may end up in situations of human trafficking. In this case, even if our informant initially consented to the arrangement of travelling to Europe, once there she was exploited and compelled to work even though she was 11 years old¹¹¹:

“Question: Can you please introduce yourself?”

Answer: I was born in X, I have two sisters and three brothers, my family lives in X, I am the only one living in Europe. I arrived here with some people who knew my parents in X. I came to Europe to work with them. I worked at an apartment where I was making bracelets that then I sold at the street markets. I was doing this all the time, all day long from 10 am to 5 pm

Q: How did you get to Europe?

A: I entered with my passport and a tourist visa valid for three months. Then I stayed as an illegal immigrant. My parents gave their agreement to the persons accompanying me to travel with them to Europe

Q: How was it with these persons in Europe?

¹¹⁰ Interview with L., cultural mediator, 1st of December of 2011.

¹¹¹ Considering the small number of interviews with female informants and in order to ensure full confidentiality, we have decided not to provide the age and national origin of the informant nor the context where the interview took place.

A: We had some difficult times but also some good ones. But if we didn't sell, they were not happy and they threatened us saying they were not going to feed us. It was a couple with two children and the lady had his 20 years old brother with her. We lived at a small apartment

Q: Did you send some money to your parents?

A: No. These persons here in Europe must pay to my parents once the arrangement was finished. I was supposed to stay only one year in Europe, and they were supposed to pay my parents after a year. But I wanted to stay here one more year

Q: Can you tell me why?

A: I don't know why. In my country there was a lot of deprivation. In my family we had always something eat but it was not the same as here in Europe. For example, over there we only had meat once a week

Q: Do you know how your departure was arranged?

A: I wanted to discover life here. At the first time my parents were saying I was too young to leave. I was only 11 years old. But I wanted to know how life was in Europe and I wanted to earn some money for my family"

In most cases, the concerned unaccompanied children are not aware of the possibility of being protected, attending school, etc. But even when they *are* aware of their entitlements they still suffer a double pressure not to assert their rights. On one hand, families compel them to send money back home in order to reimburse the migration debt. On the other hand, elder brothers or adult members from the same community already living in Europe push them to live unprotected.

The statement of an 18 year old Senegalese met in Turin illustrates this situation well. He explained why it took him a long time to get in contact with the protection authorities:

"Because I didn't understand how things worked. My friends were ignorant about this kind of things. They think that getting in touch with people of the Municipality will ruin your life. They think they'll change your religion (...) When I told my friends that there was the possibility for children without parents here to go to school, they tried to convince me not to do so. Some of them have

been here for more than 10 years, they still don't have documents, they just can go to the market to sell..."

In other cases, certain children migrate with the initial objective of reuniting with members of their extended family already living in Europe. Once their migration route is finished they discover that their presence is not really welcome and that they have to make it on their own. The situation of these children is particularly difficult as, if care providers find that they have family living in the country, they will probably be excluded from any protection provision considering they are not 'unaccompanied'¹¹².

A 17 year old Tunisian found himself in this situation in France. He had close family living in Paris and in another major French city, but no one seemed willing to look after him (apart from for a few days). When we met him he was living on the streets of Paris after spending a few days at his aunt's place:

"I cannot live with her. I have some relatives here but I cannot stay a long time with them. Above all, I don't have a job. I cannot stay (with them). So I sleep outside"

- Peers

According to Mai, once they arrive in Europe, most children and young people *"fall into places marked by specific set of opportunities and possibilities, which are already established places of marginality and irregular/illegal livelihoods in the countries of destination. The survival strategies offered in these places are substantially three: stealing, selling drugs and selling sex"*¹¹³.

Some of the unaccompanied children and young adults met during our survey, particularly those who travel by their own means and without incurring debt, were also driven to a situation of exclusion, as most of their national peers at the destination point were already living in a similar situation.

¹¹² See section I (2) in this chapter.

¹¹³ MAI, N. (2010): *"Marginalized young (male) migrants in the European Union: caught between the desire for autonomy and the priorities of social protection"* in D. SENOVILLA HERNANDEZ and al. *Migrating alone: unaccompanied and separated children's migration to Europe*, Paris, UNESCO Publishing: page 78.

In these cases, these unaccompanied children quickly got in contact with other young adults or children after their arrival and usually followed the same life patterns and engage in similar activities, whether illegal or not. Although we have not found cases of children or young adults selling sex to survive¹¹⁴ (as Mai evokes in the above-quoted reference), we have identified a significant number of cases that effectively fell into a situation of exclusion and/or delinquency from day one of their arrival. In contrast with the family pressure associated to a smuggling debt, these children living on their own had no particular pressure to produce income, apart from ensuring their daily survival. Income appeared as a consequence of their living conditions more than a real need.

In the framework of our survey, this situation emerged very clearly in the city of Turin, and to a lesser extent in Brussels and Paris.

In Turin, many children encountered from Morocco and Senegal lived in this situation. They often came from the same region or town in the country of origin (sometimes from the same neighbourhood).

A 19 year old informant described his arrival to Turin, when he was 11:

“When I arrived from Morocco, I had nothing in mind. I didn’t know what to do. I was too young. So we found ourselves on the street...”

This same informant described his life at an abandoned factory in the city centre¹¹⁵:

“We were all from the same neighbourhood of Morocco (...) Four or five we had the same age... there was another guy younger than us, he was eight or nine, but he was sent back to Morocco. But we were all right, we met, we laugh...”

In contrast with the above-described influence in exclusion processes, peers or adult members of the national community may also play a key role as ‘facilitators’ of newly arrived unaccompanied children, supporting them and responding to their basic needs. This support may be a roof

¹¹⁴ See footnote 65.

¹¹⁵ See section I (2) in this chapter.

for a few days, some money, clothes or food, information, key contacts, key addresses and, generally speaking, advice.

An Afghan 19 year old met in Paris talked about his role as facilitator with other members of his national community:

"I know a lot of Afghans. This is because there is a long time I am living here, it's just like this. Everybody in the park knows me. I am like a 'big brother'..."

To this extent, in her research conducted on Moroccan unaccompanied children living situations of exclusion in the city of Seville, Rodríguez García stresses the importance of solidarity amongst peers to commonly cope with necessities that would be too difficult to fulfil on an individual basis. This peer support usually works amongst children and youths from the same region, but it could also work with children coming from other provenances. This author comments the notion of 'blurred private property' (clothes, other items) and relates how, during observation, she often saw Moroccan children asking for and sharing cash¹¹⁶.

Our Afghan informant referred to above considered this solidarity amongst peers as a survival strategy allowing him to stay away from other illegal activities:

"For the money, sometimes I ask friends. You cannot work in Paris, you cannot steal, you cannot sell drugs. Stealing and selling drugs, it is two things I have never done in my life. Sometimes I find (money). If I don't, I don't care. It is life. Sometimes it's hard. Sometimes it's easy"

(3) Reasons linked to practices of institutional mistreatment

Within the framework of our research, we have reported several institutional practices that can be directly or indirectly linked to the children's abandonment or refusal of institutional care as well as practices that provoke the children's direct exclusion from protection.

Several authors have already used the notion of 'institutional mistreatment' when referring to certain actions and

¹¹⁶ RODRIGUEZ GARCÍA, A. (2006): "*Los chavales de la esquina. Reacciones y relaciones de menores y jóvenes marroquíes ante la protección y la exclusión*", Departamento de Trabajo Social y Servicios Sociales, Universidad de Granada: pp. 102 and following.

omissions of authorities responsible for caring for unaccompanied children¹¹⁷. The definition of this notion presents unclear boundaries and is subject to polarised interpretations. For example, certain EU authorities may present the return of an unaccompanied child to his/her country of origin as an action in his/her best interests. However, advocates and support organisations may consider this same action as a form of mistreatment.

Groze proposes an analysis to evaluate institutional mistreatment of children in care and reports four possible categories: (1) Abuse meaning the intentional use or threat of physical force by a person responsible for a child's health or welfare; (2) Sexual abuse meaning any prohibited sexual activity, including sexual exploitation; (3) Neglect meaning a deliberate act of omission directly resulting in a child suffering or being exposed to risk of suffering. This includes but is not limited to the failure to provide food, clothing, shelter or medical attention from the child; (4) Inappropriate treatment meaning harm or threatened harm to a child's health or welfare which is caused by any violation of status, regulations, written rules, procedures, directives, or accepted professional standards and practices¹¹⁸. Even if certain authors evoke situations of abuse and even sexual abuse by authorities when dealing with unaccompanied children¹¹⁹, we can cautiously consider that most of practices of mistreatment concerning unaccompanied children in Europe match with the categories of neglect and inappropriate treatment defined above.

The results of our survey confirm that immigration and Child

¹¹⁷ See PEREZ, P. (2007): "*De naufragos y navegantes: los menores y jóvenes no acompañados*", Boletín Puntos de Vista nº 10, Ed. Juventud e Inmigración: pp. 1-30; SENOVILLA HERNANDEZ, D. (2011): "*Unaccompanied and separated children in Spain: A policy of institutional mistreating*" in J. BHABHA *Children without a State. A Global Human Rights challenge* The MIT Press, Massachusetts Institute of Technology: pp. 151-176; RONGE, J-L. (2012): "*Une absence volontaire de protection: les mineurs isolés étrangers victimes de maltraitance institutionnelle*" in *Journal Droit des Jeunes* nº 311, January 2012: pp. 19-24.

¹¹⁸ See GROZE, V. (1990): "*An exploratory investigation into institutional mistreatment*" in *Children and Youth Services Review*, vol. 12, pp. 229-241. The quoted definitions are to be found in pp. 230-231.

¹¹⁹ A good example is Human Rights Watch report on the situation of unaccompanied children in the Canary Islands during the 2006-2008 period, when thousands of migrants- including unaccompanied children- arrived to this European Union's territory from West and North Africa. The investigator collected a significant number of children's testimonies denouncing the physical abuse and ill treatment of Spanish immigration and Child protection authorities. See TROLLER, S. (2007): "*Unwelcome responsibilities: Spain's Failure to Protect the Rights of unaccompanied Migrant Children in the Canary Islands*", Human Rights Watch, page 55 and following.

Welfare authorities in Europe implement a range of different institutional practices directly or indirectly causing discouragement, pressure or straight-out exclusion of unaccompanied children from institutional care facilities.

- Abusive age-assessment tests

A common and extended practice of exclusion in the four countries studied is the implementation of age assessment tests (the most common is an X-ray of the wrist bone) to confirm or dispute what the child verbally declares and/or it is supported by documentary evidence. Despite the repeatedly contested accuracy of these tests¹²⁰, European Union Member States authorities implement them to justify unaccompanied children's exclusion from benefitting of any protection, even when the child possesses identification documents proving he/she is underage.

A 16 year old Guinean met in Paris, in possession of a passport, a birth certificate and a school diploma, related his experience:

"The Judge told me 'I ask for a bone test. You are 21 or 22. I will examine your documents later on'. The educator asked to the Judge why she did not verify my documents before doing a bone test. But she said no. The test results arrived: it said I am 18 or over 18 years old. Then the Director from the centre called me and said 'You have to leave now'. 'If you want to appeal, we don't know who can help, you have to do it by yourself'"

As the Position Paper of the Separated Children in Europe Programme (SCEP) points out, if an age assessment test is to be implemented, informed consent must be obtained from the child. But occasionally, information prior to obtaining this consent is not provided to the child in an understandable language and/or manner¹²¹. Our results show that this consent is rarely obtained.

A young Mali adult met in Madrid related how he went through two consecutive age assessment tests. His

¹²⁰ Amongst others, see the extensive monograph on this topic released by the Spanish Ombudsman: (2011): "*¿Menores o adultos? Procedimientos para la determinación de la edad*", Defensor del Pueblo de España: 264 pages.

¹²¹ See (2012): "*Position Paper on Age Assessment in the Context of Separated Children in Europe*", Separated Children in Europe Programme, page 12.

statement shows how the lack of accuracy of these tests may be used in the opposite way to that which the concerned institutions claim:

“Question: How old were you when you arrived in 2008?”

Answer: Well... I was 16. But according to them, when they did the machine, I was 14

Q: When was this?

A: At the airport. And they did it again at the reception centre.

Q: Did they explain to you what it was for?

A: Yes, they told me it was to know how old I was, because they told me they did not believe me.

Q: And how do you felt about it?

A: Well, I did what they asked me to do because I had no... I had to do it

Q: Had you got a passport

A: Yes I had my passport”

An 18 year old Guinean informant reacted as follows when asked if he had been informed of the purposes of the age-assessment test

“They did not explain to me anything but anyway I was not going to understand because I did not talk any Spanish and they did not speak French or English. In any case, they don’t ask, they do...”

Again in Madrid, relevant authorities (Children Welfare services depending on the Madrid Autonomous Community) still go further by taking away the unaccompanied children’s identification documents and accusing them of document forgery. Some of the interviewed children and young adults related how they were expelled overnight from protection facilities based on the results of an age assessment test and, furthermore, how their identification documents were confiscated by the authorities. In this situation, these children become stateless *de facto* and are potentially

excluded from any other social benefit¹²².

A 19 year old youth from Mali told us how all his documents were requisitioned:

*"I had my passport, my ID card, my birth certificate, everything...
And they did not give any of them back to me, even my health
card"*

A 18 year old Guinean had a similar experience:

*"Every time I asked for my passport, everybody told me 'it's ok,
it's the Child Care services'. But who? Tell me and I can go and
talk with him and ask him what evidence do they have to say that
my passport is a fake one. What evidence? It was you who told me
to get my passport. It was Child Care services. If I get my
passport, I am in trouble, if I do not get my passport I cannot get
into the care system. So what am I supposed to do?"*

- Other examples of practices of institutional mistreatment

Other specific examples of mistreatment have been identified in the studied territories. In Paris, the creation of a selection system prior to authorising access to care facilities caused some unaccompanied children to live on the street for weeks or months. In Spain, unaccompanied children were placed for several weeks in detention centres for adult migrants upon arrival. In Belgium, relevant authorities provided different levels of care depending on the unaccompanied children's category. In Turin, unaccompanied children were ejected from care facilities overnight under random justification.

In Paris, a significant number of children have to sleep on the street or by their own means while they wait a place in a hotel or a shelter. Since the commencement of the PAOMIE evaluation system (late 2011)¹²³, this group awaiting admission into care has become more visible. During our fieldwork observation process (winter and spring of 2012), this situation affected an indefinite number of children oscillating between 20 and 50 everyday. The waiting period

¹²² Bhabha proposes an extensive analysis of the impact of statelessness in children, including migrant children in BHABHA, J. (2011): *"From citizen to migrant: The scope of child statelessness in the twenty-first century"* in J. BHABHA *Children without a State: A global human rights challenge*, The MIT Press, Massachusetts Institute of Technology: pp. 1-39.

¹²³ This system has been described in detail in section I (3) of this chapter.

could last in some cases for several weeks, even months. A PAOMIE representative described this situation as exceptional, alleging it was a period with a high number of arrivals¹²⁴.

Nevertheless, a year later the situation seemed the same. On 14th of June of 2013, different charities and support organisations demonstrated in Paris, protesting about the situation of unaccompanied children living on the street¹²⁵. The Municipality of Paris, however, in charge of Child Welfare services, declared a €100 million budget in 2012 (an increase of 150% since 2009) for 1,800 unaccompanied children placed under institutional protection¹²⁶. This makes more than €50,000 per year, per unaccompanied child, an amount that make us wonder if the use of available financial means is the most appropriate.

In any case, the concerned children we met did not understand this evaluation system (PAOMIE) and did not consider it to respond to their protection needs. A Nepalese 16 year old explained his feelings about this evaluation process:

“But everyday more people are coming, coming. But I don’t understand why, they are just giving the form and they just put it in the system. It means they are registered. But they are not really looking after these people. I think this is their responsibility. They are taking everyone but they are not really looking after everybody. This is strange”

Currently¹²⁷, this evaluation system (so far, exclusive to the municipality of Paris) is to be implemented all over the French territory. A recent Memorandum from the French Minister of Justice, in agreement with the French Assembly of Departments, has decided on the creation of a 5-day evaluation system similar to PAOMIE (from Central State funds) all over France. Furthermore, a system of territorial distribution of the reception of unaccompanied children all

¹²⁴ See note 70.

¹²⁵ “*Mineurs étrangers, en danger dans la rue*” (Foreign minors, in risk on the street)”, press article signed by Anaïs Moutot, Libération, 14th of June of 2013.

¹²⁶ “*La Prise en charge des mineurs isolés étrangers à Paris*” (The reception of unaccompanied children in Paris). Press release, Municipality of Paris, 14th of June of 2013.

¹²⁷ The final correction of this report took place during the summer of 2013.

over the territory (without setting up any real criteria) is also provided for in the same document¹²⁸.

While waiting to assess the effective implementation of these new Government provisions concerning unaccompanied children, we deplore the fact that the recent Memorandum makes no reference to the best interests of the child principle nor provide any measure to ensure children's participation all along the evaluation process¹²⁹.

In Spain, apart from the practices of appropriation of identity documents reported above, our results confirm another illegal institutional practice concerning unaccompanied children that had previously been denounced by the Spanish Ombudsman in several annual reports. This practice mainly concerns those children arriving in Spain by boat, and particularly to the Canary Islands, together with other adult migrants. In an unstipulated number of cases, the Spanish immigration authorities had placed underage persons together with adult migrants at detention centres without undertaking any verification on their age, despite a clear physical appearance as children in some cases. As for their adult partners, these children received a deportation order and were deprived of liberty for a period extending to a maximum of 40 to 60 days¹³⁰. Once this period had expired, they were released and often transferred to continental Spain, where they were finally identified as minors¹³¹.

Most young adults from West Africa, met during our fieldwork survey in Madrid, had passed through this practice of detention upon arrival.

A 19 year old Mali (who was 16 at his arrival) narrated his experience:

“When we first arrived (in the Canary Islands) they asked us how old were we, you know how it works, and we were sent to a hospital to make tests. We were to be sent to a centre for children, we were already in front of the door, and then they called us

¹²⁸ Circulaire of 31st of May of 2013 « relative aux modalités de prise en charge des jeunes isolés étrangers : dispositif national de mise à l'abri, d'évaluation et d'orientation »

¹²⁹ See articles 3 and 12 of the United Nations Convention on the Rights of the Child.

¹³⁰ The Spanish immigration Law authorized a maximum delay of detention of adult migrants of 40 days. In December 2009, a legislation amendment widened this delay up to 60 days.

¹³¹ See DEFENSOR DEL PUEBLO, *Informe anual del Defensor del Pueblo 2006*, Defensor del Pueblo español, pp. 303-304.

again and took us back to a detention centre. I stayed there for a month. Then they sent me to Madrid"

A Guinean, having just turned 16 years old at his arrival, lived a similar situation. His statement shows how this practice of mistreatment may involve keeping children deprived of liberty without undertaking the necessary steps to proceed to their identification:

"Question: How old were you when you arrived to Spain

Answer: I had just turned 16

Q: Where did you arrive?

A: To Las Palmas (the main city at one of the islands of the Canary archipelago)

Q: And where did you go then? Where did they take you?

A: "We were taken to a centre where there are a lot... I don't know, it seemed to me like a prison, there were a lot of people, locked, you cannot get out..."

Q: There were educators?

A: No, just police officers and a cooker. The police didn't know I was 16.

Q: When do you arrive to Madrid?

A: After a month they took us to... well they did the wrist stuff and sent us straight to Madrid"

An Ivorian 18 year old- 16 at arrival- went through a similar process in the south coast of continental Spain. In his testimony he declared with his own words how he was deprived of liberty for a few days (probably at a Police station)¹³² before being placed during a month at a detention centre for adults:

"When you get in they lock the door. I don't know... three days, four days... And then they take you to a centre where you spend one month, one month and a few days. I think I stayed there for one month and one day. Thirty-one days I stayed in that centre-

¹³² The Spanish regulations consider the period during which a migrant is held for purposes of age determination as a period of deprivation of liberty. The maximum authorized lapse of time without judicial intervention is 72 hours. See *Instrucción 2/2001 de la Fiscalía General del Estado*.

prison. That is a prison. They place you there, you can get out a while and they put you in again. You are under control. Some are deported to their countries and some are let to leave. For me, I was released one day in Algeciras"

In Belgium, regulations provide a specialised reception system for unaccompanied children in three phases (identification, placement at a residential centre, preparation to autonomy), regardless of their status as asylum seekers or not. Since 2009, the lack of space at the available facilities has provoked the Federal agency in charge of receiving unaccompanied children (FEDASIL) to refuse to care for unaccompanied children non-asylum seekers. This, with the exception of those considered to be the most vulnerable such as unaccompanied children under 13 years old, pregnant girls, young mothers and those suffering from medical or psychological troubles.

Unaccompanied children non-asylum seekers not considered to be vulnerable by FEDASIL are therefore not protected. Those who appeal against this decision are, in the best possible scenario, accommodated at a hotel with no educational support, no follow-up and no activities.

An unaccompanied child, 17 years old, accommodated at a hotel, testified:

"I do nothing during the day. Only eat and sleep. Nothing! There is no school. There are no places to socialize, no activities. It is really a problem being thinking the whole day"

Similarly, in Turin, the lack of available places at reception centres (between 2010 and 2011, places for unaccompanied children in Turin have been reduced from 50 to 30 due to cuts in social services budget), the inappropriate conditions of reception (saturation, insufficient food, insufficient and untrained staff) and the extremely restrictive implementation of the internal rules of these facilities, may result on the voluntary or imposed exclusion of many unaccompanied children from protection.

As a consequence of this situation, a waiting list has been created. On occasions, children are placed at facilities for adults while waiting to get an available place at the protection system for children. Obviously, considering these circumstances, those children who abandon, even

temporarily, a reception centre or those who are expelled following a violation of the rules, permanently miss their place.

This was the case of a 17 year old Moroccan who, after spending time living on the street, was placed at a reception centre. He made a big effort of integration (he attended a literacy course and then prepared for access to secondary school). Following a family problem, he decided to travel to Morocco (although he was prevented from doing this by the Child Welfare services). When he came back to Turin, he was refused care. During the interview, he declared that he was willing to integrate into the protection system but was forced to live on the street:

“Question: How do you manage to eat?”

Answer: Now I eat at Falchera (a reception centre for adults), but I don't know because I cannot stay there...

Q: What are you going to do? Have you got any friends who can accommodate you?

A: No. I am going to sleep at an abandoned house with other children.

Q: What would you like to do?

A: Get into a centre; find a job.

Q: Have you talked with the Child Welfare services?

A: Yes. They told me there is no place. Now, I want to look for a job, at least to renew my residence permit.

Q: If you could change something. What would you do for children like you?

A: Treat the children well at the centres, feed them, don't leave them starving. If one of them makes a mistake, give them a second chance”

The different practices of exclusion from institutional care that we have described in this section *do* obviously have an emotional impact on the concerned unaccompanied children. The following statement shows how the institutional practices of mistreatment are susceptible to threaten and

undermine unaccompanied children and even to make them reconsider their whole migration project.

“How I did, I don’t know, that moment I think it is the worst moment I have faced (...) I had difficulties to get up... I was used to having somebody behind me telling me what to do and then there was nobody there... I had to cope with the situation on my own and that weight was on my head, I couldn’t sleep, I was thinking all the time: how I am going to live on my own? How I am going to do everything? I have come to a country that I don’t know, why am I here? I was willing to come back and see my family...”

Section IV- Mobility as a form of unaccompanied children's agency

Few young people interviewed in the four countries involved in this research had reached the country they had originally chosen as *their destination*, and a number of them expressed their wish to leave the country we had met them in. Some of them intended to continue their migration, while others were considering returning to their countries of origin. The interviews carried out also showed that a significant number of unaccompanied children had had prior experiences in other countries, particularly within the EU (for example, children interviewed in France or Belgium had resided for variable periods of time in Italy or Spain, while the Italian interviewees had gone through Spain and France beforehand). Departure for another country was within a few days, weeks or months, depending on the degree of integration into and the availability of protection services. In addition, stopping in one country rather than in another preferred one was not necessarily a satisfactory choice for these children who had ambitious dreams and expectations regarding their future¹³³.

Taking a closer look at these young people who have had some contact with Child Welfare services and have afterwards pursued their migration or have stated their desire to do so, raises the question of the impact a particular context has on their choice. Whether to pursue their migration or not has a lot to do with the role played by Child Welfare services and with the deficiencies in the care provided.

– Why leave, why stay?

Unaccompanied children decide on their itineraries and projects up depending on the possibilities offered by their environment, be it the access to housing, medical care, education, a lucrative activity or the acquisition of a legal status. Several constraints or factors may cause them to consider a different destination, such as the lack of opportunities, many legal and bureaucratic obstacles, the general feeling of 'getting a break' elsewhere and the influence of their peers.

¹³³ It must be stated that the interviewees have shared with us their projects and itineraries at a certain given time and in a particular context, and that these are likely to change depending on the opportunities offered or the obstacles met. Their statements therefore represent *this* particular moment and *this* particular context.

Several children we met in Brussels came from Ghana, Algeria and Morocco and had lived several months in Spain, Italy or Greece prior to their migration towards Belgium. Here is the account of a 17 year old Ghanaian:

"I stayed two years in Greece before I came to Belgium. I came from Greece to Belgium by plane. (...) I was sleeping in squats... In Greece there was no work, no school, nothing. (...) I stayed there with my friends, because the protection there is bad: you must stay with your friends if you want protection. (...) There was too much suffering in Greece. What to eat, where to sleep, no better life"

This 'wish for mobility' finds its causes according to Duvivier in the absence of opportunities at a local level¹³⁴. Several situations described by the children we have met seem to counter this theory. Thus, as explained by Denov and Bryan when they discuss these children's ability to adapt to their environment, it would appear that *"independent child migrants do not act completely freely but instead respond to particular social contexts"*¹³⁵.

The context can be multidimensional when considered as a determining factor in the child's mobility (whether acted out or simply wished for). It may be of a legal or administrative nature when the failure to recognise the young person as a minor means being denied access to care services. Also, when the prospect of being granted immigration status upon majority is slim or non-existent.

The context may also be of a social and economic nature: the financial crisis in Spain and Italy was mentioned by several children outside the care systems who wanted to generate income. Lastly, the institutional context may be factored-in when the unaccompanied children have doubts about their future and wonder why they have come and why they then stay in a particular country. These doubts are aroused after having had bad experiences with institutions from practices

¹³⁴ DUVIVIER, E. (2010): *"Entre installation et poursuite de la mobilité. Analyse des trajectoires post institutionnelles de jeunes isolés étrangers accueillis à l'Aide sociale à l'enfance"* in *Migrations & Sociétés* vol. 22, n° 129-130: pp. 249-250.

¹³⁵ See DENOV, M. & BRYAN, C. (2012): *"Tactical maneuvering and calculated risks: independent child migrants and the complex terrain of flight"* in A. ORGOCKA & C. CLARK-KAZAK (Eds.), *Independent Child Migration – Insights into agency, vulnerability, and structure*. *New Directions for Child and Adolescent Development*, n° 136: p. 25.

that we have chosen to call ‘institutional mistreatment’¹³⁶. These obstacles are likely to prevent the children from looking forward to the future in that particular place (whether local or national) and thus become determining factors for their decision to leave.

However, upon facing all these constraints, the unaccompanied children do not remain passive. They make choices based on their abilities to react to different events: stay and persevere in demanding institutional and associative care; stay and find any means of survival; go to another region within the same country or abroad. Duvivier speaks of a succession of mobile and sedentary periods whose purpose is to find the environment that would allow them the possibility of a new life¹³⁷.

This ability to act and react is often labelled ‘agency’ mainly in Anglo-Saxon literature. O’Higgins defines this notion as the “*young people’s ability to participate meaningfully in the construction of their daily lives, including their capacity to cope, their ability to adapt, and their resilience*”¹³⁸.

A 16 year old Moroccan, having left his home country when he was 12 and currently living in Belgium, talked about his itinerary passing through Italy (for four years, staying with his brother) and France (for a few months, sleeping in a squat) and not having been taken into care in either country:

"There was no work and no way for me to have papers for me and my brother no longer had his papers and worked [in Italy], I left for Bordeaux by train (...) I stayed a little in Bordeaux (...) The people there told me there was a lot of schools in Belgium and all that, and laws for unaccompanied children and you don't have to sleep on the street, it's better. So I took the train and came to Belgium"

So the convergence of several factors will lead the child to adapt his actions. These factors are linked to the children's

¹³⁶ See Chapter 3, Section III (3).

¹³⁷ DUVIVIER, E. (2008): “*Du temps du placement au temps de l’institution: analyse des trajectoires migratoires d’un groupe de mineurs isolés pris en charge dans un foyer socio-éducatif de la métropole lilloise*” in D. SENOVILLA HERNÁNDEZ, *La migration des mineurs non accompagnés en Europe*, Revue EMIGRINTER n° 2, page 204.

¹³⁸ O’HIGGINS, A. (2012): “*Vulnerability and agency: beyond an irreconcilable dichotomy for social services providers working with young refugees in the UK*” in A. ORGOCKA & C. CLARK-KAZAK (Eds.), *Independent Child Migration – Insights into agency, vulnerability, and structure*. New Directions for Child and Adolescent Development, n° 136, p 81.

desires and/or projects, to the opportunities and/or obstacles they meet and, finally, to the local or distant alternatives, be they real or imagined.

A 17 year old Moroccan we met in Turin was intent on leaving Italy, well aware that he had virtually no chance to obtain a legal status. Sometimes he squatted, other times he was cared for in Child Welfare institutions, out of which he was excluded or he himself had abandoned:

*"I have to get out of this town now, this town never helped anyone.
I'm going to Norway or Morocco. If I can't find any work in
Norway, I'll go back to Morocco"*

Some unaccompanied children do however pursue their migration route towards a destination that appeals to them as it has the promise for a better future. They are often influenced by what members of their community say, thus forming a social migrating network. The information from this network is used as a strategic resource during their migration¹³⁹.

A 17 year old Afghan that had been living on the street after having been excluded from a care institution highlighted the influence of the community on choosing a destination:

*"I said I'll go to Sweden. (...) All the Afghans are there, they don't
stay much here."*

Other children stay put with the hope that their situation will improve from the stalemate they are in. This happens especially when they have support for their administrative and/or legal procedures. Inversely, some children mentioned their inability to continue their journey either for financial reasons or because they had the feeling that after having spent months, sometimes years in a country, the perspectives for having a better situation in a new environment become unrealistic. They therefore considered that it is too late to migrate again after all the time, energy and money spent looking for a better future in the present country. These children have shared with us their despondency and their confusion about their situation of marginalisation in Europe, a situation they had not contemplated before their journey.

¹³⁹ DUVIVIER, E. (2010), *op.cit.*, pp. 243-255.

A young Afghan adult of 18 talked about his regret of having left Iran, where he had lived before coming to Europe. After having been lodged in a Parisian hotel, without any follow-up, he had tried to reach the United Kingdom via Calais. After that failed, he had been living on the streets of Paris:

"If I had known the amount of time I was going to put in coming here for nothing, I would have never come! Because in Iran people say in Europe is better, but I've been living rough for 5 years now. I came here to have a better life, but I can't go back to Iran because of my pride"

– Institutional Roles and Responsibilities

One of the factors for mobility already mentioned is the institutional context. Regarding this, Vacchiano raises the question of to what extent protection services, particularly their deficiencies, participate in the potential marginalisation of unaccompanied children. He shows that beyond the proclaimed principles, the care provided is (most often, intentionally) uncertain, contributing to the rejection of these children and their marginalisation, those same things they were running away from in their home countries¹⁴⁰. The same author questions the roles of the States, and more precisely those of the institutions effectively involved in caring for these children and protecting them. The difficulties and obstacles which the unaccompanied children meet are many and varied and have been mentioned by most of the interviewees, regardless of the country covered by our research.

The practices of institutional mistreatment that many unaccompanied children must face during their migration (as described in Chapter 3, Section III above) are therefore significant incentives to pursue further migration¹⁴¹.

¹⁴⁰ VACCHIANO, F. (2012): "Minori che migrano soli. Strategie di movimento e progetti di confinamento", in S. SAQUELLA & S. VOLPICELLI, *Migrazione e Sviluppo: una nuova relazione?*, Roma, Nuova Cultura: pp. 99-123. See also VACCHIANO F. & JIMENEZ, M. (2012): "Between agency and repression: Moroccan children on the edge", *Children's Geographies*, vol. 10 n° 4: pp. 457-471.

¹⁴¹ The account given by *Terre des Hommes* uses the formula 'incitement to disappear' when they mention the possible causes for running away from foster care facilities. See (2010): "Disappearing, departing, running away: a surfeit of children in Europe?", *Terre des Hommes- Genève, op.cit.*, p. 41.

When we interviewed the professionals of these institutions, we reached the conclusion that they feared large arrivals of children if the reception conditions were to improve¹⁴². Some also mentioned the fact that children in transit were not one of their responsibilities, and the mobility of these children is then used as means to justify their lack of care. However, the child's supposed project (to stay in that particular country or continue migrating) should not hinder access to Child Welfare services and should be taken into account when trying to find a durable solution in the child's best interests.

The issue of reception conditions for unaccompanied children is therefore political, as it oscillates between migration control and Child Welfare. It also becomes a financial issue in the sense that by continuing their migration, the responsibility of caring for these children is ultimately the problem of the local institutions in the future destination. Inadequate practices of care may reveal the authorities' implicit motives for these children to encourage their mobility. Thus, these malpractices in institutional care may become incentives for mobility.

The words of a young Afghan met in Paris illustrate quite well the situation of ambivalence in which our young interviewees found themselves. On one hand, their ability to be mobile becomes a reaction to the constraints and obstacles they meet in their quest for a better life; on the other hand, their provisional or definitive immobility may become an additional form of vulnerability, provoked by the reasons presented throughout this chapter:

"I didn't know where to go, if it was right for me. Italy was no good: no food, no school. People there don't live a good life. If I can see a country that will be good for my future... The country itself is not important to us. What is important is to have a good way of treating the foreigners and protection for the children. I stayed in Italy for about 11 days. I spent 18 days in Greece and it was hard. (...) I don't have any money. How can I keep on traveling?"

¹⁴² This is commonly mentioned in literature, for example see: VACCHIANO, F. & JIMENEZ, M. (2012), *op. cit.*, p.462: "Despite the fundamental duty to provide housing, education, health and social inclusion, many European institutions reveal the true concern through repeated statements against the 'migratory chain', that is the possibility that a good outcome for some could cause the arrival of others".

Conclusion

During our fieldwork in Paris we were able to witness a completely random ‘selection’ practice in the street, regardless of the weather outside - rain or shine, in order for unaccompanied children to spend the night in a gymnasium. Aside from the humiliation of being dealt with in full sight of passers-by, it is important to take into account the fact that a few dozen unaccompanied children had to find the means to arrange some kind of sleeping accommodation every evening.

We were also able to visit ‘The Hotel’ in Turin, an abandoned factory closely resembling a war film location, where several groups of unaccompanied children lived. We were also able to observe how many of these unaccompanied children were living in this city, marginalised and surrounded by delinquency.

In Madrid we met with former unaccompanied children who had been deprived of their identification documents by the authorities after they had been taken into their care.

In Brussels we have discovered some categories of children being properly taken care of, while budget cuts led to others being more or less left on their own.

Unaccompanied children in France, Belgium, Italy, and Spain are subjected to the consequences of their migrant status and the potential financial burdens they represent to the authorities and thus can scarcely benefit from their rights as children. Aside from the most basic social rights mentioned in this document, a number of rights provided by the United Nations Convention on the Rights of the Child are disregarded on a regular basis.

Following the position of the Committee on the Rights of the Child¹⁴³, unaccompanied children are temporarily or definitively deprived of their family environment and are therefore entitled to the States’ special protection and assistance. Relevant authorities must therefore ensure immediate access for all identified unaccompanied children to adequate accommodation and care (and this should include age-disputed cases during the assessment of the age of the concerned person). The institutional

¹⁴³ COMMITTEE ON THE RIGHTS OF THE CHILD (2005): General Comment n° 6 on the treatment of unaccompanied and separated children outside their country of origin, *op.cit.*, paragraph 39.

practices reported in this document provoking selective access or exclusion from institutional care *do* constitute a violation of article 20 of the United Nations Convention.

While lacking protection, the unaccompanied children's right to life, survival and development as set out in article 6 of the Convention, may be jeopardized by all the risks associated with street life.

Our findings show that United Nations Convention general principle of non-discrimination, set out in article 2, is also disregarded. Unaccompanied migrant children are often discriminated against when compared to national children in need and, on occasions, even when compared to some of their peers. As described throughout this document, current institutional practices provide different levels of care on the basis of the previous setting of different categories: those who are under or over 16 years old, those who are or are not asylum seekers, etc.

Furthermore, once unaccompanied children have been sheltered, relevant Child Welfare authorities fail to undertake an individualised, complete evaluation of their needs of protection in order to take adapted decisions with regard to their accommodation, health, education, appointment of a guardian and a legal counsellor, etc. The concerned children's participation should also be adequately ensured throughout the whole process. However, our findings show that relevant authorities make these choices neither providing consideration to the children's views nor evaluating their needs. The main criteria used seem to be the available places at reception or educational facilities and the progressive territorial distribution of the responsibility.

As the guidelines set out by the United Nations High Commissioner for Refugees state¹⁴⁴, the evaluation of the child's needs must be followed by a formal process of determination of the best interests of the child. This determination is of the utmost importance in all stages of the reception of unaccompanied children, but especially to identify and implement a durable solution to respond to their situation.

Our fieldwork results indicate that relevant authorities prioritise in most cases *their* interest to reduce the number of new arrivals and barely provide any consideration to the concerned unaccompanied

¹⁴⁴ (2008): "*Guidelines on determining the best interests of the child*", UNHCR – United Nations High Commissioner for Refugees: 97 pages.

children's best interests. Budgetary limitations in Child Welfare or the control of migratory flows are perhaps legitimate State interests, but should *never* take precedence over the interest of an unaccompanied child.

If the migration of unaccompanied children is a relatively recent phenomenon, the authorities at their different levels are still unable to find solutions adapted to and in conformity with international, EU and national legislations. The much-heralded return policies and prevention programs in the countries of origin have proved to be inefficient, as the unaccompanied children keep knocking on Europe's door and claiming their right to a better life.

Our research thus shows the necessity to keep working at different levels (be they institutional, associative, academic or citizen) in order to contribute to the development of real solutions. There is a necessary and urgent need to work in networks, to exchange experiences, to combine disciplines and approaches, to master [new] techniques and programs that actually work. Last but not least, it is imperative to unite all our voices in order to denounce all abuse, breaches of children's rights and all forms of mistreatment. It is also essential to continue the fieldwork, to reach out to these children and ask them to bear witness to their situation and at the same time to counsel them, support them and inform them of their rights.

These children and adolescents are vulnerable indeed, but they have showed a surprising and remarkable resilience and ability to adapt to and fight against adversity and against the obstacles they have to face. But not only this: in spite of their circumstances, they have expressed their admirable motivation to get an education, to progress and develop themselves as human beings.

The same unaccompanied children concerned in our study must be involved in our search for solutions. We must take their life stories and opinions into account. We must adapt our response to their actual needs and make this response flexible in order to adapt it to the complexity of their life stories, to the diversity of their profiles and circumstances. We must continue to work for them, but also with them.

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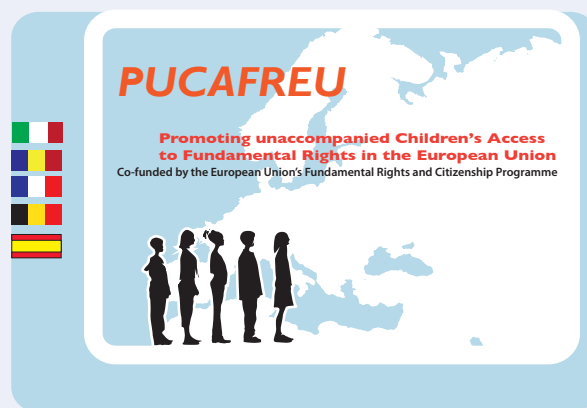
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